

104TH CONGRESS
2D SESSION

H. R. 3102

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1996

Mr. VISCLOSKY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, 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 “Common Sense Cor-
5 porate Responsibility Act of 1996”.

1 **TITLE I—CORPORATE TAX AND**
2 **AGRICULTURAL RELATED**
3 **PROVISIONS**

4 **SEC. 101. REPEAL OF ELECTION TO TAKE PERCENTAGE**
5 **CREDIT UNDER PUERTO RICO AND POSSES-**
6 **SION TAX CREDIT.**

7 (a) IN GENERAL.—Paragraph (4) of section 936(a)
8 of the Internal Revenue Act of 1986 (relating to Puerto
9 Rico and possession tax credit) is amended by striking
10 subparagraph (B).

11 (b) TERMINATION OF EXISTING ELECTIONS.—No
12 election under subparagraph (B) of section 936(a)(4) of
13 such Code (as in effect on the day before the date of the
14 enactment of this Act) shall apply for any taxable year
15 beginning after December 31, 1995.

16 (c) REVOCATION OF SECTION 936 ELECTION WITH-
17 OUT CONSENT OF SECRETARY.—Notwithstanding section
18 936(e)(2)(A) of such Code, a taxpayer may revoke the
19 election under subsection (a) of section 936 of such Code
20 without the consent of the Secretary of the Treasury if
21 the taxpayer had in effect, for the last taxable year ending
22 on or before December 31, 1995, an election under sub-
23 paragraph (B) of section 936(a)(4) of such Code (as in
24 effect on the day before the date of the enactment of this
25 Act). This subsection shall apply only with respect to rev-

1 ocations made for the first taxable year beginning after
2 December 31, 1995.

3 (d) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to taxable years beginning after
5 December 31, 1995.

6 **SEC. 102. ELIMINATION OF EXCLUSION OF CERTAIN IN-**
7 **COME OF FOREIGN SALES CORPORATIONS.**

8 (a) IN GENERAL.—Section 921 of the Internal Reve-
9 nue Code of 1986 (relating to exempt foreign trade income
10 excluded from gross income) is amended by adding at the
11 end the following new subsection:

12 “(e) TERMINATION.—This section shall not apply to
13 any taxable year beginning after December 31, 1995.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 1995.

17 **SEC. 103. REPEAL OF INCENTIVES FOR ALCOHOL FUELS.**

18 (a) REPEAL.—Section 40 of the Internal Revenue
19 Code of 1986 is repealed.

20 (b) CONFORMING REDUCTIONS OF OTHER INCEN-
21 TIVES FOR ETHANOL FUEL.—

22 (1) REPEAL OF REDUCED RATE ON ETHANOL
23 FUEL PRODUCED OTHER THAN FROM PETROLEUM
24 OR NATURAL GAS.—Subsection (b) of section 4041
25 is amended to read as follows:

1 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
2 USE.—

3 “(1) IN GENERAL.—No tax shall be imposed by
4 subsection (a) or (d)(1) on liquids sold for use or
5 used in an off-highway business use.

6 “(2) TAX WHERE OTHER USE.—If a liquid on
7 which no tax was imposed by reason of paragraph
8 (1) is used otherwise than in an off-highway busi-
9 ness use, a tax shall be imposed by paragraph
10 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
11 (whichever is appropriate) and by the corresponding
12 provision of subsection (d)(1) (if any).

13 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—
14 For purposes of this subsection, the term ‘off-high-
15 way business use’ has the meaning given to such
16 term by section 6421(e)(2); except that such term
17 shall not, for purposes of subsection (a)(1), include
18 use in a diesel-powered train.”

19 (2) REPEAL OF REDUCED RATE ON ETHANOL
20 FUEL PRODUCED FROM NATURAL GAS.—Subsection
21 (m) of section 4041 is amended—

22 (A) by striking “or ethanol” each place it
23 appears (including the heading of paragraph
24 (2)), and

1 (B) by striking “, ethanol, or other alco-
2 hol” in paragraph (2) and inserting “or other
3 alcohol (other than ethanol)”.

4 (c) CONFORMING AMENDMENTS TO EXCISE TAXES;
5 FUEL ALCOHOL TAXED IN SAME MANNER AS OTHER
6 MOTOR FUELS.—

7 (1) IN GENERAL.—Paragraph (1) of section
8 4083(a) (defining taxable fuel) is amended by strik-
9 ing “and” at the end of subparagraph (A), by strik-
10 ing the period at the end of subparagraph (B) and
11 inserting “, and”, and by adding at the end the fol-
12 lowing:

13 “(C) fuel alcohol.”

14 (2) FUEL ALCOHOL.—Subsection (a) of section
15 4083 is amended by adding at the end the following
16 new paragraph:

17 “(4) FUEL ALCOHOL.—The term ‘fuel alcohol’
18 means any alcohol (including ethanol and meth-
19 anol)—

20 “(A) which is produced other than from
21 petroleum, natural gas, or coal (including peat),
22 and

23 “(B) which is withdrawn from the distillery
24 where produced free of tax under chapter 51 by

1 reason of section 5181 or so much of section
2 5214(a)(1) as relates to fuel use.”

3 (3) RATE OF TAX.—Clause (i) of section
4 4081(a)(2)(A) is amended by inserting “or fuel alco-
5 hol” after “gasoline”.

6 (4) SPECIAL RULES FOR IMPOSITION OF TAX.—
7 Paragraph (1) of section 4081(a) is amended by
8 adding at the end the following new subparagraph:

9 “(C) SPECIAL RULES FOR FUEL ALCO-
10 HOL.—In the case of fuel alcohol—

11 “(i) the distillery where produced shall
12 be treated as a refinery, and

13 “(ii) subparagraph (B) shall be ap-
14 plied by including transfers by truck or rail
15 in excess of such minimum quantities as
16 the Secretary shall prescribe.”

17 (5) REPEAL OF REDUCED RATES ON ALCOHOL
18 FUELS.—

19 (A) Section 4041 is amended by striking
20 subsection (k).

21 (B) Section 4081 is amended by striking
22 subsection (c).

23 (C) Section 4091 is amended by striking
24 subsection (c).

25 (6) CONFORMING AMENDMENTS.—

1 (A) Paragraph (2) of section 4041(a) is
2 amended by adding at the end the following:
3 “No tax shall be imposed by this paragraph on
4 the sale or use of any liquid if tax was imposed
5 on such liquid under section 4081 and the tax
6 thereon was not credited or refunded.”

7 (B) Section 6427 is amended by striking
8 subsection (f).

9 (C) Subsection (i) of section 6427 is
10 amended by striking paragraph (3).

11 (D) Paragraph (2) of section 6427(k) is
12 amended by striking “(3)”.

13 (E)(i) Paragraph (1) of section 6427(l) is
14 amended by striking “or” at the end of sub-
15 paragraph (A), by redesignating subparagraph
16 (B) as subparagraph (C), and by inserting after
17 subparagraph (A) the following new subpara-
18 graph:

19 “(B) any fuel alcohol (as defined in section
20 4083) on which tax has been imposed by sec-
21 tion 4081, or”.

22 (ii) Paragraph (2) of section 6427(l) is
23 amended by striking “and” at the end of sub-
24 paragraph (A), by redesignating subparagraph
25 (B) as subparagraph (C), and by inserting after

1 subparagraph (A) the following new subpara-
2 graph:

3 “(B) in the case of fuel alcohol (as so de-
4 fined), any use which is exempt from the tax
5 imposed by section 4041(a)(2) other than by
6 reason of a prior imposition of tax, and”.

7 (iii) The heading of subsection (l) of sec-
8 tion 6427 is amended by inserting “, FUEL AL-
9 COHOL,” after “DIESEL FUEL”.

10 (F) Sections 9503(b)(1)(E) and
11 9508(b)(2) are each amended by striking “and
12 kerosene” and inserting “kerosene, and fuel al-
13 cohol”.

14 (G) Section 9502 is amended by striking
15 subsection (e) and by redesignating subsection
16 (f) as subsection (e).

17 (H) Subsection (e) of section 9502 (as re-
18 designated by subparagraph (I)) is amended by
19 striking paragraph (2) and by redesignating
20 paragraph (3) as paragraph (2).

21 (I) Subsection (b) of section 9503 is
22 amended by striking paragraph (5).

23 (J) Paragraph (3) of section 9503(f) is
24 amended to read as follows:

1 “(3) PARTIALLY EXEMPT METHANOL OR ETHA-
2 NOL FUEL.—In the case of a rate of tax determined
3 under section 4041(m), the Highway Trust Fund fi-
4 nancing rate is the excess (if any) of the rate so de-
5 termined over—

6 “(A) 5.55 cents per gallon after September
7 30, 1993, and before October 1, 1995, and

8 “(B) 4.3 cents per gallon after September
9 30, 1995.”

10 (d) EFFECTIVE DATE.—

11 (1) REPEAL OF THE CREDIT.—The repeal made
12 by subsection (a) shall apply to taxable years begin-
13 ning after December 31, 1995.

14 (2) AMENDMENTS RELATING TO EXCISE
15 TAXES.—The amendments made by subsections (b)
16 and (c) shall take effect on January 1, 1996.

17 (e) FLOOR STOCK TAXES.—

18 (1) IMPOSITION OF TAX.—In the case of fuel al-
19 cohol which is held on January 1, 1996, by any per-
20 son, there is hereby imposed a floor stocks tax of
21 18.4 cents per gallon.

22 (2) LIABILITY FOR TAX AND METHOD OF PAY-
23 MENT.—

24 (A) LIABILITY FOR TAX.—A person hold-
25 ing fuel alcohol on January 1, 1996, to which

1 the tax imposed by paragraph (1) applies shall
2 be liable for such tax.

3 (B) METHOD OF PAYMENT.—The tax im-
4 posed by paragraph (1) shall be paid in such
5 manner as the Secretary shall prescribe.

6 (C) TIME FOR PAYMENT.—The tax im-
7 posed by paragraph (1) shall be paid on or be-
8 fore June 30, 1996.

9 (3) DEFINITIONS.—For purposes of this sub-
10 section—

11 (A) FUEL ALCOHOL.—The term “fuel alco-
12 hol” has the meaning given such term by sec-
13 tion 4083 of the Internal Revenue Code of
14 1986, as amended by this section.

15 (B) HELD BY A PERSON.—Fuel alcohol
16 shall be considered as “held by a person” if
17 title thereto has passed to such person (whether
18 or not delivery to the person has been made).

19 (C) SECRETARY.—The term “Secretary”
20 means the Secretary of the Treasury or his del-
21 egate.

22 (4) EXCEPTION FOR EXEMPT USES.—The tax
23 imposed by paragraph (1) shall not apply to fuel al-
24 cohol held by any person exclusively for any use to
25 the extent a credit or refund of the tax imposed by

1 section 4081 of the Internal Revenue Code of 1986
2 is allowable for such use.

3 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
4 TANK.—No tax shall be imposed by paragraph (1)
5 on fuel alcohol held in the tank of a motor vehicle
6 or motorboat.

7 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
8 FUEL.—

9 (A) IN GENERAL.—No tax shall be im-
10 posed by paragraph (1) on fuel alcohol held on
11 January 1, 1996, by any person if the aggre-
12 gate amount of fuel alcohol held by such person
13 on such date does not exceed 2,000 gallons.
14 The preceding sentence shall apply only if such
15 person submits to the Secretary (at the time
16 and in the manner required by the Secretary)
17 such information as the Secretary shall require
18 for purposes of this paragraph.

19 (B) EXEMPT FUEL.—For purposes of sub-
20 paragraph (A), there shall not be taken into ac-
21 count fuel held by any person which is exempt
22 from the tax imposed by paragraph (1) by rea-
23 son of paragraph (4) or (5).

24 (C) CONTROLLED GROUPS.—For purposes
25 of this paragraph—

1 (i) CORPORATIONS.—

2 (I) IN GENERAL.—All persons
3 treated as a controlled group shall be
4 treated as 1 person.

5 (II) CONTROLLED GROUP.—The
6 term “controlled group” has the
7 meaning given to such term by sub-
8 section (a) of section 1563 of such
9 Code; except that for such purposes
10 the phrase “more than 50 percent”
11 shall be substituted for the phrase “at
12 least 80 percent” each place it ap-
13 pears in such subsection.

14 (ii) NONINCORPORATED PERSONS
15 UNDER COMMON CONTROL.—Under regula-
16 tions prescribed by the Secretary, prin-
17 ciples similar to the principles of clause (i)
18 shall apply to a group of persons under
19 common control where 1 or more of such
20 persons is not a corporation.

21 (7) OTHER LAWS APPLICABLE.—All provisions
22 of law, including penalties, applicable with respect to
23 the taxes imposed by section 4081 of such Code
24 shall, insofar as applicable and not inconsistent with
25 the provisions of this subsection, apply with respect

1 to the floor stock taxes imposed by paragraph (1) to
2 the same extent as if such taxes were imposed by
3 such section 4081.

4 **SEC. 104. COST OF WATER USED TO PRODUCE SURPLUS**
5 **CROPS.**

6 Section 9 of the Reclamation Project Act of 1939 (43
7 U.S.C. 485h) is amended by inserting at the end thereof
8 the following new subsection:

9 “(g)(1) Any contract entered into under authority of
10 this section or any other provision of Federal reclamation
11 law shall require that the organization agree by contract
12 with the Secretary to pay full cost for the delivery of water
13 used in the production of any crop of an agricultural com-
14 modity for which an acreage reduction program is in effect
15 under the provisions of the Agricultural Act of 1949 (7
16 U.S.C. 1421 et seq.).

17 “(2) The Secretary shall announce the amount of the
18 full cost payment for the succeeding year on or before July
19 1 of each year.

20 “(3) As used in this subsection, the term ‘full cost’
21 shall have the meaning given such term in paragraph (3)
22 of section 202 of the Reclamation Reform Act of 1982
23 (43 U.S.C. 390bb(3)).

1 “(4) Paragraph (1) shall apply to any contract en-
 2 tered into or amended after the date of enactment of this
 3 subsection.”.

4 **SEC. 105. REPEAL OF TITLE III OF AGRICULTURAL TRADE**
 5 **ACT OF 1978.**

6 Title III of the Agricultural Trade Act of 1978 (7
 7 U.S.C. 5651 et seq.) is repealed.

8 **SEC. 106. REPEAL OF SECTION 203 OF AGRICULTURAL**
 9 **TRADE ACT OF 1978.**

10 Section 203 of the Agricultural Trade Act of 1978
 11 (7 U.S.C. 5623) is repealed.

12 **TITLE II—MINERAL EXPLO-**
 13 **RATION AND DEVELOPMENT**
 14 **Subtitle A—Mineral Exploration**
 15 **and Development**

16 **SEC. 201. SHORT TITLE, FINDINGS AND PURPOSES.**

17 (a) **SHORT TITLE.**—This title may be cited as the
 18 “Mineral Exploration and Development Act of 1996”.

19 (b) **FINDINGS.**—Congress finds and declares the fol-
 20 lowing:

21 (1) The general mining laws, commonly re-
 22 ferred to as the Mining Law of 1872, at one time
 23 promoted the development of the West and provided
 24 a framework for the exploitation of Federal mineral
 25 resources.

1 (2) Congress recognized that the public interest
2 was no longer being advanced under the Mining Law
3 of 1872 when, in 1920, it removed energy minerals
4 and minerals chiefly valuable for agricultural use,
5 and in 1955, removed common varieties of mineral
6 materials, from the scope of the general mining laws
7 and made such minerals available under regimes
8 which provide for a financial return to the public for
9 the disposition of such minerals and which better
10 safeguard the environment.

11 (3) The Mining Law of 1872 no longer fosters
12 the efficient and diligent development of those min-
13 eral resources still under its scope, giving rise to
14 speculation and nonmining uses of lands chiefly val-
15 uable for minerals.

16 (4) The Mining Law of 1872 does not provide
17 for a financial return to the American people for use
18 by claim holders of public domain lands or for the
19 disposition of valuable mineral resources from such
20 lands.

21 (5) The Mining Law of 1872 continues to
22 transfer lands valuable for mineral resources from
23 the public domain to private ownership for less than
24 the fair market value of such lands and mineral re-
25 sources.

1 (6) There are a substantial number of acres of
2 land throughout the Nation disturbed by mining ac-
3 tivities conducted under the Mining Law of 1872 on
4 which little or no reclamation was conducted, and
5 the impacts from these unreclaimed lands pose a
6 threat to the public health, safety, and general wel-
7 fare and to environmental quality.

8 (7) Activities under the Mining Law of 1872
9 continue to result in disturbances of surface areas
10 and water resources which burden and adversely af-
11 fect the public welfare by destroying or diminishing
12 the utility of public domain lands for other appro-
13 priate uses and by creating hazards dangerous to
14 the public health and safety and to the environment.

15 (8) Existing Federal law and regulations, as
16 well as applicable State laws, have proven to be in-
17 adequate to ensure that active mining operations
18 under the Mining Law of 1872 will not leave to fu-
19 ture generations a new legacy of hazards associated
20 with unreclaimed mined lands.

21 (9) The public interest is no longer being served
22 by archaic features of the Mining Law of 1872 that
23 thwart the efficient exploration and development of
24 those minerals which remain under its scope and

1 which conflict with modern public land use manage-
2 ment philosophies.

3 (10) The public is justified in expecting the dili-
4 gent development of its mineral resources, a finan-
5 cial return for the use of public domain lands for
6 mineral activities as well as for the disposition of
7 valuable mineral resources from such lands.

8 (11) It is not in the public interest for public
9 domain lands to be sold far below fair market value
10 nor does this aspect of the Mining Law of 1872
11 comport with modern Federal land policy which is
12 grounded on the retention of public domain lands
13 under the principles of multiple use.

14 (12) Mining and reclamation technology is now
15 developed so that effective and reasonable regulation
16 of operations by the Federal Government in accord-
17 ance with this title is an appropriate and necessary
18 means to minimize so far as practicable the adverse
19 social, economic and environmental effects of such
20 mining operations.

21 (13) Mining activities on public domain lands
22 affect interstate commerce, contribute to the eco-
23 nomic well-being, security and general welfare of the
24 Nation and should be conducted in an environ-
25 mentally sound manner.

1 (14) It is necessary that any revision of the
2 general mining laws insure that a domestic supply of
3 hardrock minerals be made available to the domestic
4 economy of the United States.

5 (15) America's economy still depends heavily on
6 hardrock minerals and a strong environmentally
7 sound mining industry is critical to the domestic
8 minerals supply.

9 (16) Many of the deposits of hardrock minerals
10 remain to be discovered on the Federal public do-
11 main.

12 (17) Private enterprise must be given adequate
13 incentive to engage in a capital-intensive industry
14 such as hardrock mining.

15 (18) The United States, as owner of the public
16 domain, has a dual interest in insuring a fair return
17 for mining on the public domain and insuring that
18 any royalty and fees charged do not discourage es-
19 sential mining activity on the public domain.

20 (19) The domestic mining industry provides
21 thousands of jobs directly and indirectly to the do-
22 mestic economy and those jobs must be preserved
23 and encouraged by a sound Federal policy regarding
24 mining on Federal lands.

25 (c) PURPOSE.—It is the purpose of this title—

1 (1) to devise a more socially, fiscally and envi-
2 ronmentally responsible regime to govern the use of
3 public domain lands for the exploration and develop-
4 ment of those minerals not subject to mineral leas-
5 ing acts or mineral materials statutes;

6 (2) to provide for a fair return to the public for
7 the use of public domain lands for mineral activities
8 and for the disposition of minerals from such lands;

9 (3) to foster the diligent development of mineral
10 resources on public domain lands in a manner that
11 is compatible with other resource values and envi-
12 ronmental quality;

13 (4) to promote the restoration of mined areas
14 left without adequate reclamation prior to the enact-
15 ment of this Act and which continue, in their
16 unreclaimed condition, to substantially degrade the
17 quality of the environment, prevent the beneficial
18 use of land or water resources, and endanger the
19 health and safety of the public;

20 (5) to assure that appropriate procedures are
21 provided for public participation in the development,
22 revision and enforcement of regulations, standards
23 and programs established under this title; and

24 (6) to, whenever necessary, exercise the full
25 reach of Federal constitutional powers to ensure the

1 protection of the public interest through the effective
2 control of mineral exploration and development ac-
3 tivities.

4 **SEC. 202. DEFINITIONS AND REFERENCES.**

5 (a) DEFINITIONS.—As used in this title:

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

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

11 (B) Any partner of such person.

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

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

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

22 (4) The term “claim holder” means a person
23 holding a mining claim located or converted under
24 this title. Such term may include an agent of a claim
25 holder.

1 (5) The term “control” means having the abil-
2 ity, directly or indirectly, to determine (without re-
3 gard to whether exercised through one or more cor-
4 porate structures) the manner in which an entity
5 conducts mineral activities, through any means, in-
6 cluding without limitation, ownership interest, au-
7 thority to commit the entity’s real or financial as-
8 sets, position as a director, officer, or partner of the
9 entity, or contractual arrangement. The Secretary
10 and the Secretary of Agriculture shall jointly pro-
11 mulgate such rules as may be necessary under this
12 paragraph.

13 (6) The term “exploration” means those tech-
14 niques employed to locate the presence of a locatable
15 mineral deposit and to establish its nature, position,
16 size, shape, grade and value not associated with min-
17 ing, beneficiation, processing or marketing of min-
18 erals.

19 (7) The term “Indian lands” means lands held
20 in trust for the benefit of an Indian tribe or individ-
21 ual or held by an Indian tribe or individual subject
22 to a restriction by the United States against alien-
23 ation.

24 (8) The term “Indian tribe” means any Indian
25 tribe, band, nation, pueblo, or other organized group

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

8 (9) The term “land use plans” means those
9 plans required under section 202 of the Federal
10 Land Policy and Management Act of 1976 (43
11 U.S.C. 1712) or the land management plans for Na-
12 tional Forest System units required under section 6
13 of the Forest and Rangeland Renewable Resources
14 Planning Act of 1974 (16 U.S.C. 1604), whichever
15 is applicable.

16 (10) The term “legal subdivisions” means an
17 aliquot quarter quarter section of land as established
18 by the official records of the public land survey sys-
19 tem, or a single lot as established by the official
20 records of the public land survey system if the perti-
21 nent section is irregular and contains fractional lots,
22 as the case may be.

23 (11)(A) The term “locatable mineral” means
24 any mineral, the legal and beneficial title to which

1 remains in the United States and which is not sub-
2 ject to disposition under any of the following:

3 (i) The Mineral Leasing Act (30 U.S.C.
4 181 and following).

5 (ii) The Geothermal Steam Act of 1970
6 (30 U.S.C. 1001 and following).

7 (iii) The Act of July 31, 1947, commonly
8 known as the Materials Act of 1947 (30 U.S.C.
9 601 and following).

10 (iv) The Mineral Leasing for Acquired
11 Lands Act (30 U.S.C. 351 and following).

12 (B) The term “locatable mineral” does not in-
13 clude any mineral held in trust by the United States
14 for any Indian or Indian tribe, as defined in section
15 2 of the Indian Mineral Development Act of 1982
16 (25 U.S.C. 2101), or any mineral owned by any In-
17 dian or Indian tribe, as defined in that section, that
18 is subject to a restriction against alienation imposed
19 by the United States.

20 (12) The term “mineral activities” means any
21 activity on Federal lands for, related to, or inciden-
22 tal to, mineral exploration, mining, beneficiation,
23 processing, or reclamation activities for any locatable
24 mineral.

1 (13) The term “mining” means the processes
2 employed for the extraction of a locatable mineral
3 from the earth.

4 (14) The term “mining claim” means a claim
5 for the purposes of mineral activities.

6 (15) The term “National Conservation System
7 unit” means any unit of the National Park System,
8 National Wildlife Refuge System, National Wild and
9 Scenic Rivers System, National Trails System, or a
10 National Conservation Area, National Recreation
11 Area, a National Forest Monument or any unit of
12 the National Wilderness Preservation System.

13 (16) The term “operator” means any person,
14 conducting mineral activities subject to this title or
15 any agent of such a person.

16 (17) The term “person” means an individual,
17 Indian tribe, partnership, association, society, joint
18 venture, joint stock company, firm, company, cor-
19 poration, cooperative or other organization and any
20 instrumentality of State or local government includ-
21 ing any publicly owned utility or publicly owned cor-
22 poration of State or local government.

23 (18) The term “processing” means processes
24 downstream of beneficiation employed to prepare
25 locatable mineral ore into the final marketable prod-

1 uct, including but not limited to, smelting and elec-
2 trolytic refining.

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

5 (20) The term “surface management require-
6 ments” means the requirements and standards of
7 subtitle B, and such other standards as are estab-
8 lished by the Secretary governing mineral activities
9 pursuant to this title.

10 (b) REFERENCES.—(1) Any reference in this title to
11 the term “general mining laws” is a reference to those
12 Acts which generally comprise chapters 2, 12A, and 16,
13 and sections 161 and 162 of title 30 of the United States
14 Code.

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

21 **SEC. 203. LANDS OPEN TO LOCATION.**

22 (a) LANDS OPEN TO LOCATION.—Except as provided
23 in subsection (b), mining claims may be located under this
24 title on lands and interests in lands owned by the United
25 States if—

1 (1) such lands and interests were open to the
2 location of mining claims under the general mining
3 laws on the date of enactment of this Act; or

4 (2) such lands and interests are opened to the
5 location of mining claims after the date of enact-
6 ment of this Act by reason of any administrative ac-
7 tion or statute.

8 (b) LANDS NOT OPEN TO LOCATION.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law and subject to valid existing rights,
11 each of the following shall not be open to the loca-
12 tion of mining claims under this title on or after the
13 date of enactment of this Act:

14 (A) Lands recommended for wilderness
15 designation by the agency managing the sur-
16 face, pending a final determination by the Con-
17 gress of the status of such recommended lands.

18 (B) Lands being managed by the Sec-
19 retary, acting through Bureau of Land Manage-
20 ment, as wilderness study areas on the date of
21 enactment of this Act except where the location
22 of mining claims is specifically allowed to con-
23 tinue by the statute designating the study area,
24 pending a final determination by the Congress
25 of the status of such lands.

1 (C)(i) Lands under study for inclusion in
2 the National Wild and Scenic River System
3 pursuant to section 5(a) of the Wild and Scenic
4 Rivers Act (16 U.S.C. 1276(a)), pending a final
5 determination by the Congress of the status of
6 such lands, and (ii) lands determined by a Fed-
7 eral agency under section 5(d) of such Act to
8 be eligible for inclusion in such system, pending
9 a final determination by the Congress of the
10 status of such lands.

11 (D) Lands withdrawn from mineral activi-
12 ties under authority of other law.

13 (2) DEFINITION.—(A) As used in this sub-
14 section, the term “valid existing rights” refers to a
15 mining claim located on lands described in para-
16 graph (1) of subsection (a) that—

17 (i) was properly located and maintained
18 under this title prior to and on the applicable
19 date, or

20 (ii) was properly located and maintained
21 under the general mining laws prior to the ap-
22 plicable date, and

23 (I) was supported by a discovery of a
24 valuable mineral deposit within the mean-

1 ing of the general mining laws on the ap-
2 plicable date, and

3 (II) continues to be valid under this
4 title.

5 (B) As used in this paragraph, the term “appli-
6 cable date” means one of the following:

7 (i) In the case of lands described in para-
8 graph (1)(A), such term means the date of the
9 recommendation referred to in paragraph
10 (1)(A) if such recommendation is made on or
11 after the enactment of this Act.

12 (ii) In the case of lands described in para-
13 graph (1)(A), if the recommendation referred to
14 in paragraph (1)(A) was made before the enact-
15 ment of this Act, such term means the earlier
16 of (I) the date of enactment of this Act or (II)
17 the date of any withdrawal of such lands from
18 mineral activities.

19 (iii) For lands described in paragraph
20 (1)(B), such term means the date of the enact-
21 ment of this Act.

22 (iv) For lands referred to in paragraph
23 (1)(C)(i), such term means the date of the en-
24 actment of the amendment to the Wild and Sce-
25 nic Rivers Act listing the river segment for

1 study and for lands referred to in paragraph
2 (1)(C)(ii), such term means the date of the eli-
3 gibility determination.

4 (v) For lands referred to in paragraph
5 (1)(D), such term means the date of the with-
6 drawal.

7 **SEC. 204. RIGHTS UNDER THIS TITLE.**

8 The holder of a mining claim located or converted
9 under this title and maintained in compliance with this
10 title shall have the exclusive right of possession and use
11 of the claimed land for mineral activities, including the
12 right of ingress and egress to such claimed lands for such
13 activities, subject to the rights of the United States under
14 this title and other applicable Federal law. Such rights of
15 the claim holder shall terminate upon completion of min-
16 eral activities of lands to the satisfaction of the Secretary.
17 In cases where an area is determined unsuitable under
18 section 219, holders of claims converted or located under
19 this title shall be entitled to receive a refund of claim
20 maintenance fees.

21 **SEC. 205. LOCATION OF MINING CLAIMS.**

22 (a) GENERAL RULE.—A person may locate a mining
23 claim covering lands open to the location of mining claims
24 by posting a notice of location, containing the person's
25 name and address, the time of location (which shall be

1 the date and hour of location and posting), and a legal
2 description of the claim. The notice of location shall be
3 posted on a suitable, durable monument erected as near
4 as practicable to the northeast corner of the mining claim.
5 No person who is not a citizen of the United States, or
6 a corporation organized under the laws of the United
7 States or of any State or the District of Columbia may
8 locate or hold a claim under this title. On or after the
9 enactment of this Act, a mining claim for a locatable min-
10 eral on lands open to location—

11 (1) may be located only in accordance with this
12 title,

13 (2) may be maintained only as provided in this
14 title, and

15 (3) shall be subject to the requirements of this
16 title.

17 (b) USE OF PUBLIC LAND SURVEY.—Except as pro-
18 vided in subsection (c), each mining claim located under
19 this title shall (1) be located in accordance with the public
20 land survey system, and (2) conform to the legal subdivi-
21 sions thereof. Except as provided in subsection (c)(1), the
22 legal description of the mining claim shall be based on the
23 public land survey system and its legal subdivisions.

1 (c) EXCEPTIONS.—(1) If only a protracted survey ex-
2 ists for the public lands concerned, each of the following
3 shall apply in lieu of subsection (b):

4 (A) The legal description of the mining claim
5 shall be based on the protracted survey and the min-
6 ing claim shall be located as near as practicable in
7 conformance with a protracted legal subdivision.

8 (B) The mining claim shall be monumented on
9 the ground by the erection of a suitable, durable
10 monument at each corner of the claim.

11 (C) The legal description of the mining claim
12 shall include a reference to any existing survey
13 monument, or where no such monument can be
14 found within a reasonable distance, to a permanent
15 and conspicuous natural object.

16 (2) If no survey exists for the public lands concerned,
17 each of the following shall apply in lieu of subsection (b):

18 (A) The mining claim shall be a regular square,
19 with each side laid out in cardinal directions, 40
20 acres in size.

21 (B) The claim shall be monumented on the
22 ground by the erection of a suitable durable monu-
23 ment at each corner of the claim.

24 (C) The legal description of the mining claim
25 shall be expressed in metes and bounds and shall be

1 defined by and referenced to the closest existing sur-
2 vey monument, or where no such monument can be
3 found within a reasonable distance, to a permanent
4 and conspicuous natural object. Such description
5 shall be of sufficient accuracy and completeness to
6 permit recording of the claim upon the public land
7 records and to permit the claim to be readily found
8 upon the ground.

9 (3) In the case of a conflict between the boundaries
10 of a mining claim as monumented on the ground and the
11 description of such claim in the notice of location referred
12 to in subsection (a), the notice of location shall be deter-
13 minative, except where determined otherwise by the Sec-
14 retary.

15 (d) FILING WITH SECRETARY.—(1) Within 30 days
16 after the location of a mining claim pursuant to this sec-
17 tion, a copy of the notice of location referred to in sub-
18 section (a) shall be filed with the Secretary in an office
19 designated by the Secretary.

20 (2)(A) Whenever the Secretary receives a copy of a
21 notice of location of a mining claim under this title, the
22 Secretary shall assign a serial number to the mining claim,
23 and immediately return a copy of the notice of location
24 to the locator of the claim, together with a certificate set-
25 ting forth the serial number, a description of the claim,

1 and the claim maintenance requirements of section 207.
2 The Secretary shall enter the claim on the public land
3 records.

4 (B) Return of the copy of the notice of location and
5 provision of the certificate under subparagraph (A) shall
6 not constitute a determination by the Secretary that a
7 claim is valid. Failure by the Secretary to provide such
8 copy and certificate shall not constitute a defense against
9 cancellation of a claim for failure to follow applicable re-
10 quirements of this title.

11 (3) Notwithstanding any other provision of law, for
12 every unpatented mining claim located after the date of
13 enactment of this Act, the locator shall, at the time the
14 location notice is recorded with the Bureau of Land Man-
15 agement, pay a location fee of \$25.00 per claim. The loca-
16 tion fee shall be in addition to the claim maintenance fee
17 payable under section 207.

18 (4) Subsections (b) and (c) of section 314 of the Fed-
19 eral Land Policy and Management Act of 1976 (43 U.S.C.
20 1744(b)) are repealed.

21 (e) CONVERTED CLAIMS.—For mining claims and
22 mill sites deemed converted under this title, for the pur-
23 poses of complying with the requirements of subsection
24 (d), upon receipt of the initial claim maintenance fee re-
25 quired under section 207, the Secretary shall issue a cer-

1 tificate referenced in subsection (d)(2) to the holder of the
2 mining claim or mill site.

3 (f) DATE OF LOCATION.—A mining claim located
4 under this title shall be effective based upon the time of
5 location.

6 (g) LANDS COVERED BY CLAIM.—A mining claim lo-
7 cated or converted under this title shall include all lands
8 and interests in lands open to location within the bound-
9 aries of the claim, subject to any prior mining claim lo-
10 cated or converted under this title.

11 (h) CONFLICTING LOCATIONS.—Any conflicts be-
12 tween the holders of mining claims located or converted
13 under this title relating to relative superiority under the
14 provisions of this title may be resolved in adjudication pro-
15 ceedings in a court with proper jurisdiction, including, as
16 appropriate, State courts. It shall be incumbent upon the
17 holder of a mining claim asserting superior rights in such
18 proceedings to demonstrate that such person was the sen-
19 ior locator, or if such person is the junior locator, that
20 prior to the location of the claim by such locator—

21 (1) the senior locator failed to file a copy of the
22 notice of location within the time provided under
23 subsection (d); or

24 (2) the amount of claim maintenance fee paid
25 by the senior locator at the time of filing the loca-

1 tion notice referred to in subsection (d) was less
2 than the amount required to be paid by such locator.

3 (i) **EXTENT OF MINERAL DEPOSIT.**—The boundaries
4 of a mining claim located under this title shall extend ver-
5 tically downward.

6 **SEC. 206. CONVERSION OF EXISTING CLAIMS.**

7 (a) **EXISTING CLAIMS.**—Notwithstanding any other
8 provision of law, on the effective date of this title any
9 unpatented mining claim for a locatable mineral located
10 under the general mining laws prior to the date of enact-
11 ment of this Act shall become subject to this title's provi-
12 sions and shall be deemed a converted mining claim under
13 this title. Nothing in this title shall be construed to affect
14 extralateral rights in any valid lode mining claim existing
15 on the date of enactment of this Act. After the effective
16 date of this title, there shall be no distinction made as
17 to whether such claim was originally located as a lode or
18 placer claim.

19 (b) **MILL AND TUNNEL SITES.**—On the effective date
20 of this title, any unpatented mill or tunnel site located
21 under the general mining laws before the date of enact-
22 ment of this Act shall become subject to this title's provi-
23 sions and shall be deemed a converted mining claim under
24 this title.

1 (c) POSTCONVERSION.—Any unpatented mining
2 claim or mill site located under the general mining laws
3 shall be deemed to be a prior claim for the purposes of
4 section 205(g) when converted pursuant to subsection (a)
5 or (b).

6 (d) DISPOSITION OF LAND.—In the event a mining
7 claim is located under this title for lands encumbered by
8 a prior mining claim or mill site located under the general
9 mining laws, such lands shall become part of the claim
10 located under this title if the claim or mill site located
11 under the general mining laws is declared null and void
12 under this section or is otherwise declared null and void
13 thereafter.

14 (e) CONFLICTS.—(1) Any conflicts in existence before
15 the effective date of this title between holders of mining
16 claims, mill sites and tunnel sites located under the gen-
17 eral mining laws shall be subject to, and shall be resolved
18 in accordance with, applicable laws governing such con-
19 flicts in effect before the effective date of enactment of
20 this Act in a court of proper jurisdiction.

21 (2) Any conflicts not relating to matters provided for
22 under section 205(h) between the holders of a mining
23 claim located under this title and a mining claim, mill,
24 or tunnel site located under the general mining laws aris-
25 ing either before or after the conversion of any such claim

1 or site under this section shall be resolved in a court with
2 proper jurisdiction.

3 **SEC. 207. CLAIM MAINTENANCE REQUIREMENTS.**

4 (a) IN GENERAL.—(1) The holder of each mining
5 claim converted pursuant to this title shall pay to the Sec-
6 retary an annual claim maintenance fee of \$100 per claim.

7 (2) The holder of each mining claim located pursuant
8 to this title shall pay to the Secretary an annual claim
9 maintenance fee of \$200 per claim.

10 (b) TIME OF PAYMENT.—The claim maintenance fee
11 payable pursuant to subsection (a) for any year shall be
12 paid on or before August 31 of each year, except that in
13 the case of claims referred to in subsection (a)(2), for the
14 initial calendar year in which the location is made, the
15 locator shall pay the initial claim maintenance fee at the
16 time the location notice is recorded with the Bureau of
17 Land Management.

18 (c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
19 This section shall not apply to any oil shale claims for
20 which a fee is required to be paid under section 2511(e)(2)
21 of the Energy Policy Act of 1992 (Public Law 102-486;
22 106 Stat. 3111; 30 U.S.C. 242).

23 (d) CLAIM MAINTENANCE FEES PAYABLE UNDER
24 1993 ACT.—The claim maintenance fees payable under
25

1 this section for any period with respect to any claim shall
2 be reduced by the amount of the claim maintenance fees
3 paid under section 10101 of the Omnibus Budget Rec-
4 onciliation Act of 1993 with respect to that claim and with
5 respect to the same period.

6 (e) WAIVER.—(1) The claim maintenance fee re-
7 quired under this section may be waived for a claim holder
8 who certifies in writing to the Secretary that on the date
9 the payment was due, the claim holder and all related par-
10 ties held not more than 10 mining claims on lands open
11 to location. Such certification shall be made on or before
12 the date on which payment is due.

13 (2) For purposes of paragraph (1), with respect to
14 any claim holder, the term “related party” means each
15 of the following:

16 (A) The spouse and dependent children (as de-
17 fined in section 152 of the Internal Revenue Code of
18 1986), of the claim holder.

19 (B) Any affiliate of the claim holder.

20 (f) CO-OWNERSHIP.—Upon the failure of any one or
21 more of several co-owners to contribute such co-owner or
22 owners’ portion of the fee under this section, any co-owner
23 who has paid such fee may, after the payment due date,
24 give the delinquent co-owner or owners notice of such fail-
25 ure in writing (or by publication in the newspaper nearest

1 the claim for at least once a week for at least 90 days).
2 If at the expiration of 90 days after such notice in writing
3 or by publication, any delinquent co-owner fails or refuses
4 to contribute his portion, his interest in the claim shall
5 become the property of the co-owners who have paid the
6 required fee.

7 (g) FUND.—All monies received under this section
8 shall be deposited in the Abandoned Locatable Minerals
9 Mine Reclamation Fund established under subtitle C of
10 this title.

11 (h) CREDIT AGAINST ROYALTY.—The amount of the
12 annual claim maintenance fee required to be paid under
13 this section for any claim for any period shall be credited
14 against the amount of royalty required to be paid under
15 section 236 for the same period with respect to that claim.

16 **SEC. 208. FAILURE TO COMPLY.**

17 (a) FORFEITURE.—The failure of the claim holder to
18 file the notice of location, to pay the location fee, or to
19 pay the claim maintenance fee for a mining claim as re-
20 quired by this subtitle shall be deemed conclusively to con-
21 stitute forfeiture of the mining claim by operation of law.
22 Forfeiture shall not relieve any person of any obligation
23 created under this title, including reclamation.

24 (b) PROHIBITION.—No claim holder may locate a new
25 claim on the lands such claim holder included in a for-

1 feited claim for 1 year from the date such claim is deemed
2 forfeited.

3 (c) RELINQUISHMENT.—A claim holder deciding not
4 to pursue mineral activities on a claim may relinquish such
5 claim by notifying the Secretary. A claim holder relin-
6 quishing a claim is responsible for reclamation as required
7 by section 217 of this title and all other applicable require-
8 ments. A claim holder who relinquishes a claim shall not
9 be subject to the prohibition of subsection (b) of this sec-
10 tion unless the Secretary determines that the claim is
11 being relinquished and relocated for the purpose of avoid-
12 ing compliance with any provision of this title, including
13 payment of the claim maintenance fee.

14 **SEC. 209. BASIS FOR CONTEST.**

15 (a) DISCOVERY.—(1) After the effective date of this
16 title, a mining claim may not be contested or challenged
17 on the basis of discovery under the general mining laws,
18 except as follows:

19 (A) Any claim located before the effective date
20 of this title may be contested by the United States
21 on the basis of discovery under the general mining
22 laws as in effect prior to the effective date of this
23 title if such claim is located within any National
24 Conservation System unit, or within any area re-
25 ferred to in section 203(b).

1 (B) Any mining claim located before the effective date of this title may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this title if such claim was located for a mineral material that purportedly has a property giving it distinct and special value within the meaning of section 3(a) of the Act of July 23, 1955 (as in effect prior to the date of enactment of this Act), or if such claim was located for a mineral that was not locatable under the general mining laws before the effective date of this title.

13 (2) The Secretary may initiate contest proceedings against those mining claims referred to in paragraph (1) at any time, except that nothing in this subsection may be construed as requiring the Secretary to inquire into, or contest, the validity of a mining claim for the purpose of the conversion referred to in section 206, except as provided in section 252.

20 (3) Nothing in this subsection may be construed as limiting any contest proceedings initiated by the United States on issues other than discovery, or any contest proceedings filed before the effective date of this title.

24 (4) Any contest proceeding initiated pursuant to paragraph (1) shall determine whether the mining claim

1 or claims subject to such proceeding supported a discovery
2 of a valuable mineral deposit within the meaning of the
3 general mining laws on the effective date of this title.

4 (b) CONTINUED SUFFICIENCY OF MINING CLAIM.—

5 (1) At any time, upon request of the Secretary, the claim
6 holder shall demonstrate that the continued retention of
7 a mining claim located or converted under this title is ex-
8 clusively related to mineral activities at the site.

9 (2) Where the Secretary requests demonstration of
10 the continuing sufficiency of any mining claim under this
11 section, the claim holder shall have the burden of showing
12 each of the following:

13 (A) The lands or interests in lands included in
14 the mining claim are not used predominantly for rec-
15 reational, residential or other purposes rather than
16 for mineral activities and are being held in good
17 faith for the ultimate exploration for, development
18 of, or production of locatable minerals, as dem-
19 onstrated by the claim holder or his or her assigns
20 through showings satisfactory to the Secretary.

21 (B) The claim holder or operator does not re-
22 strict access to the lands or interests in lands in-
23 cluded in the mining claim in a manner that is not
24 required for mineral activities.

1 (C) The mineral being or to be mined on the
2 mining claim is a locatable mineral (unless such
3 lands are used for beneficiation or processing).

4 (D) The claim holder or operator has not con-
5 structed, improved, maintained or used a structure
6 located on a mining claim in a manner not specifi-
7 cally authorized by the Secretary in accordance with
8 this title.

9 (3) Any mining claim for which the claim holder fails
10 to demonstrate continued sufficiency, in the determination
11 of the Secretary, pursuant to subsection (b) of this section,
12 shall thereupon be deemed forfeited and be declared null
13 and void.

14 (c) REMEDIES.—(1) The Secretary may assess a civil
15 penalty of not more than \$5,000 per claim against the
16 claim holder upon declaring a mining claim null and void
17 pursuant to subsection (b) of this section.

18 (2) Upon declaring a mining claim null and void pur-
19 suant to subsection (b), the Secretary shall provide a rea-
20 sonable opportunity for the mining claim holder or opera-
21 tor to remove any real or personal property which such
22 person had previously placed upon the claim. If the prop-
23 erty is not removed within the time provided, the Sec-
24 retary may retain the property or provide for its disposi-
25 tion or destruction.

1 (d) OTHER LAW.—The Secretary shall take such ac-
2 tions as may be necessary to ensure the compliance by
3 claim holders with section 4 of the Act of July 23, 1955
4 (30 U.S.C. 612), consistent with this section.

5 **Subtitle B—Environmental Consid-**
6 **erations of Mineral Exploration**
7 **and Development**

8 **SEC. 211. SURFACE MANAGEMENT STANDARD.**

9 Notwithstanding the last sentence of section 302(b)
10 of the Federal Land Policy and Management Act of 1976,
11 and in accordance with this subtitle and other applicable
12 law, the Secretary, and for National Forest System lands
13 the Secretary of Agriculture, shall require that mineral ac-
14 tivities on Federal lands conducted by any person mini-
15 mize adverse impacts to the environment.

16 **SEC. 212. PERMITS.**

17 (a) PERMITS REQUIRED.—No person may engage in
18 mineral activities on Federal lands that may cause a dis-
19 turbance of surface resources, including but not limited
20 to, land, air, ground water and surface water, fish, wild-
21 life, and biota unless—

22 (1) the claim was properly located or converted
23 under this title and properly maintained; and

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

1 (b) NEGLIGIBLE DISTURBANCE.—Notwithstanding
2 subsection (a)(2), a permit under this subtitle shall not
3 be required for mineral activities related to exploration,
4 or gathering of data, required to comply with section 213
5 or 214 that cause a negligible disturbance of surface re-
6 sources and do not involve any of the following:

7 (1) The use of mechanized earth moving equip-
8 ment, suction dredging, explosives.

9 (2) The use of motor vehicles in areas closed to
10 off-road vehicles.

11 (3) The construction of roads, drill pads, or the
12 use of toxic or hazardous materials.

13 Persons engaging in such activities shall provide prior
14 written notice. The Secretary and the Secretary of Agri-
15 culture may provide, by joint regulations the manner in
16 which such notice shall be provided.

17 (c) WAIVER OF THE SOVEREIGN IMMUNITY OF IN-
18 DIAN TRIBES.—The Secretary is authorized to require In-
19 dian tribes to waive sovereign immunity as a condition of
20 obtaining a permit under this title.

21 **SEC. 213. EXPLORATION PERMITS.**

22 (a) AUTHORIZED EXPLORATION ACTIVITY.—Any
23 claim holder may apply for an exploration permit for any
24 mining claim authorizing the claim holder to remove a rea-
25 sonable amount of the locatable minerals from the claim

1 for analysis, study and testing. Such permit shall not au-
2 thorize the claim holder to remove any mineral for sale
3 nor to conduct any activities other than those required for
4 exploration for locatable minerals and reclamation.

5 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
6 plication for an exploration permit under this section shall
7 be submitted in a manner satisfactory to the Secretary
8 or, for National Forest System lands, the Secretary of Ag-
9 riculture, and shall contain an exploration plan, a reclama-
10 tion plan for the proposed exploration, such documenta-
11 tion as necessary to ensure compliance with applicable
12 Federal and State environmental laws and regulations,
13 and each of the following:

14 (1) The name, mailing address, and social secu-
15 rity number or tax identification number, as applica-
16 ble, of each of the following:

17 (A) The applicant for the permit and any
18 agent of the applicant.

19 (B) The operator (if different than the ap-
20 plicant) of the claim concerned.

21 (C) Each claim holder (if different than
22 the applicant) of the claim concerned.

23 (2) A statement of whether any person referred
24 to in subparagraphs (A) through (C) of paragraph
25 (1) is currently in violation of, or was, during the 3-

1 year period preceding the date of the application,
2 found to be in violation of, any of the following and,
3 if so, a brief explanation of the facts involved, in-
4 cluding identification of the site and nature of the
5 violation:

6 (A) Any provision of this title or any regu-
7 lation under this title.

8 (B) Any applicable toxic substance, solid
9 waste, air, water quality, or fish and wildlife
10 conservation law or regulation at any site where
11 mining, beneficiation, or processing activities
12 are occurring or have occurred.

13 (C) The Surface Mining Control and Rec-
14 lamation Act of 1977 (30 U.S.C. 1201 and fol-
15 lowing) or any regulation under that Act at any
16 site where surface coal mining operations have
17 occurred or are occurring.

18 (3) A description of the type and method of ex-
19 ploration activities proposed, the engineering tech-
20 niques proposed to be used and the equipment pro-
21 posed to be used.

22 (4) The anticipated starting and termination
23 dates of each phase of the exploration activities pro-
24 posed, including any planned temporary cessation of
25 exploration.

1 (5) A map, to an appropriate scale, clearly
2 showing the land to be affected by the proposed ex-
3 ploration.

4 (6) Information determined necessary by the
5 Secretary concerned to assess the cumulative im-
6 pacts, as required to comply with the National Envi-
7 ronmental Policy Act of 1969.

8 (7) Evidence of appropriate financial assurance
9 as specified in section 216.

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

15 (1) A description of the condition of the land,
16 including the fish and wildlife resources and habitat
17 contained thereon, subject to the permit prior to the
18 commencement of any exploration activities.

19 (2) A description of reclamation measures pro-
20 posed pursuant to the requirements of section 217.

21 (3) The engineering techniques to be used in
22 reclamation and the equipment proposed to be used.

23 (4) The anticipated starting and termination
24 dates of each phase of the reclamation proposed.

1 (5) A description of the proposed condition of
2 the land, including the fish and wildlife resources
3 and habitat contained thereon, following the comple-
4 tion of reclamation.

5 (d) PERMIT ISSUANCE OR DENIAL.—The Secretary,
6 or for National Forest System lands, the Secretary of Ag-
7 riculture, shall issue an exploration permit pursuant to an
8 application under this section if such Secretary makes
9 each of the following determinations, and such Secretary
10 shall deny a permit which he or she finds does not fully
11 meet the requirements of this subsection:

12 (1) The permit application, the exploration plan
13 and reclamation plan are complete and accurate.

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

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

21 (4) The area subject to the proposed permit is
22 not included within an area designated unsuitable
23 under section 219 or not open to location under sec-
24 tion 203(b) for the types of exploration activities
25 proposed.

1 (5) The applicant has demonstrated that the
2 exploration plan and reclamation plan will be in
3 compliance with the requirements of this title and all
4 other applicable Federal requirements, and any
5 State requirements agreed to by the Secretary of the
6 Interior (or Secretary of Agriculture, as appropriate)
7 pursuant to a cooperative agreement under section
8 218.

9 (6) The applicant has fully complied with the
10 requirements of section 216 (relating to financial as-
11 surance).

12 (e) TERM OF PERMIT.—An exploration permit shall
13 be for a stated term. The term shall be no greater than
14 that necessary to accomplish the proposed exploration,
15 and in no case for more than 5 years.

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

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

3 (g) FEES.—Each application for a permit pursuant
4 to this section shall be accompanied by a fee payable to
5 the Secretary of the Interior in such amount as may be
6 established by the Secretary of the Interior. Such amount
7 shall be equal to the actual or anticipated cost to the Sec-
8 retary or the Secretary of Agriculture, as the case may
9 be, of reviewing, administering, and enforcing such permit,
10 as determined by such Secretary. All moneys received
11 under this subsection shall be deposited in the Abandoned
12 Locatable Minerals Mine Reclamation Fund established
13 under subtitle C of this title.

14 (h) TRANSFER, ASSIGNMENT, OR SALE OF
15 RIGHTS.—(1) No transfer, assignment, or sale of rights
16 granted by a permit issued under this section shall be
17 made without the prior written approval of the Secretary
18 or for National Forest System lands, the Secretary of Ag-
19 riculture.

20 (2) Such Secretary may allow a person holding a per-
21 mit to transfer, assign, or sell rights under the permit to
22 a successor, if the Secretary finds, in writing, that the suc-
23 cessor—

24 (A) is eligible to receive a permit in accordance
25 with section 215;

1 (B) has submitted evidence of financial assur-
2 ance satisfactory under section 216; and

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

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

11 (4) Each application for approval of a permit trans-
12 fer, assignment, or sale pursuant to this subsection shall
13 be accompanied by a fee payable to the Secretary of the
14 Interior in such amount as may be established by such
15 Secretary. Such amount shall be equal to the actual or
16 anticipated cost to the Secretary or the Secretary of Agri-
17 culture, as appropriate, of reviewing and approving or dis-
18 approving such transfer, assignment, or sale, as deter-
19 mined by the Secretary of the Interior. All moneys re-
20 ceived under this subsection shall be deposited in the
21 Abandoned Locatable Minerals Mine Reclamation Fund
22 established under subtitle C of this title.

23 **SEC. 214. OPERATIONS PERMIT.**

24 (a) OPERATIONS PERMIT.—Any claim holder may
25 apply to the Secretary, or for National Forest System

1 lands, the Secretary of Agriculture, for an operations per-
2 mit authorizing the claim holder to carry out mineral ac-
3 tivities on Federal lands. The permit shall include such
4 terms and conditions as prescribed by such Secretary to
5 carry out this subtitle.

6 (b) PERMIT APPLICATION REQUIREMENTS.—An ap-
7 plication for an operations permit under this section shall
8 be submitted in a manner satisfactory to the Secretary
9 concerned and shall contain an operations plan, a reclama-
10 tion plan, such documentation as necessary to ensure com-
11 pliance with applicable Federal and State environmental
12 laws and regulations, and each of the following:

13 (1) The name, mailing address, and social secu-
14 rity number or tax identification number, as applica-
15 ble, of each of the following:

16 (A) The applicant for the permit and any
17 agent of the applicant.

18 (B) The operator (if different than the ap-
19 plicant) at the claim concerned.

20 (C) Each claim holder (if different than
21 the applicant) of the claim concerned.

22 (D) Each affiliate and each officer or di-
23 rector of the applicant.

24 (2) A statement of whether a person referred to
25 in subparagraphs (A) through (D) of paragraph (1)

1 is currently in violation of, or was, during the 3-year
2 period preceding the date of application, found to be
3 in violation of, any of the following and if so, a brief
4 explanation of the facts involved, including identi-
5 fication of the site and the nature of the violation:

6 (A) Any provision of this title or any regu-
7 lation under this title.

8 (B) Any applicable toxic substance, solid
9 waste, air, water quality, or fish and wildlife
10 conservation law or regulation at any site where
11 mining, beneficiation, or processing activities
12 are occurring or have occurred.

13 (C) The Surface Mining Control and Rec-
14 lamation Act of 1977 (30 U.S.C. 1201 and fol-
15 lowing) or any regulation under that Act at any
16 site where surface coal mining operations have
17 occurred or are occurring.

18 (3) A statement of any current or previous per-
19 mits or plans of operations issued under the Surface
20 Mining Control and Reclamation Act or the Federal
21 Land Policy and Management Act of 1976.

22 (4) A description of the type and method of
23 mineral activities proposed, the engineering tech-
24 niques proposed to be used and the equipment pro-
25 posed to be used.

1 (5) The anticipated starting and termination
2 dates of each phase of the mineral activities pro-
3 posed, including any planned temporary cessation of
4 operations.

5 (6) Maps, to an appropriate scale, clearly show-
6 ing the lands, watersheds, and surface waters, to be
7 affected by the proposed mineral activities; surface
8 and mineral ownership; facilities, including roads
9 and other man-made structures; proposed disturb-
10 ances; soils and vegetation; topography; and water
11 supply intakes and surface water bodies.

12 (7) A description of the biological resources in
13 or associated with the area subject to mineral activi-
14 ties, including vegetation, fish and wildlife, riparian
15 and wetland habitats.

16 (8) A description of measures planned to ex-
17 clude fish and wildlife resources from the area sub-
18 ject to mineral activities by covering, containment,
19 or fencing of open waters, beneficiation, and process-
20 ing materials; or maintenance of all facilities in a
21 condition that is not harmful to fish and wildlife.

22 (9) A description of the quantity and quality of
23 surface and ground water resources in or associated
24 with the area subject to mineral activities, based on

1 pre-disturbance monitoring sufficient to establish
2 seasonal variations.

3 (10) An analysis of the probable hydrologic con-
4 sequences of the mineral activities, both on and off
5 the area subject to mineral activities, with respect to
6 the hydrologic regime, quantity and quality of water
7 in surface and ground water systems including the
8 dissolved and suspended solids under seasonal flow
9 conditions and the collection of sufficient data for
10 the mine site and surrounding areas so that an as-
11 sessment can be made by the Secretary concerned of
12 the probable cumulative impacts of the anticipated
13 mineral activities in the area upon the hydrology of
14 the area and particularly upon water availability.

15 (11) A description of the monitoring systems to
16 be used to detect and determine whether compliance
17 has and is occurring consistent with the surface
18 management requirements and to monitor the ef-
19 fects of mineral activities on the site and surround-
20 ing environment, including but not limited to,
21 ground water, surface water, air, soils, and fish and
22 wildlife resources.

23 (12) Accident contingency plans that include,
24 but are not limited to, immediate response strategies
25 and corrective measures to mitigate environmental

1 impacts and appropriate insurance to cover accident
2 contingencies.

3 (13) Any measures to comply with any condi-
4 tions on minerals activities that may be required in
5 the applicable land use plan or any condition stipu-
6 lated pursuant to section 219.

7 (14) Information determined necessary by the
8 Secretary concerned to assess the cumulative im-
9 pacts of mineral activities, as required to comply
10 with the National Environmental Policy Act of 1969.

11 (15) Such other environmental baseline data as
12 the Secretaries, by joint regulation, shall require suf-
13 ficient to validate the determinations required for is-
14 suance of a permit under this title.

15 (16) Evidence of appropriate financial assur-
16 ance as specified in section 216.

17 (17) A description of the site security provisions
18 designed to protect from theft the locatable min-
19 erals, concentrates or products derived therefrom
20 which will be produced or stored on a mining claim.

21 (18) A full characterization of soils and geology
22 in the area to be affected by mineral activities.

23 (19) A copy of the applicant's advertisement to
24 be published as required by section 243 (relating to
25 public participation).

1 (c) RECLAMATION PLAN APPLICATION REQUIRE-
2 MENTS.—The reclamation plan referred to in subsection
3 (b) shall include such reclamation measures as prescribed
4 by the Secretary, or for National Forest System lands the
5 Secretary of Agriculture, and each of the following:

6 (1) A description of the condition of the land,
7 including the fish and wildlife resources and habitat
8 contained thereon, subject to the permit prior to the
9 commencement of any mineral activities.

10 (2) A description of reclamation measures pro-
11 posed pursuant to the requirements of section 217.

12 (3) The engineering techniques to be used in
13 reclamation and the equipment proposed to be used.

14 (4) The anticipated starting and termination
15 dates of each phase of the reclamation proposed.

16 (5) A description of the proposed condition of
17 the land, including the fish and wildlife resources
18 and habitat contained thereon, following the comple-
19 tion of reclamation.

20 (6) A description of the maintenance measures
21 that will be necessary to meet the surface manage-
22 ment requirements of this title, such as, but not lim-
23 ited to, drainage water treatment facilities, or liner
24 maintenance and control.

1 (7) The consideration which has been given to
2 making the condition of the land after the comple-
3 tion of mineral activities and final reclamation con-
4 sistent with the applicable land use plan.

5 (d) PERMIT ISSUANCE OR DENIAL.—(1) After pro-
6 viding notice and opportunity for public comment and
7 hearing, the Secretary, or for National Forest System
8 lands the Secretary of Agriculture, shall issue an oper-
9 ations permit if such Secretary makes each of the follow-
10 ing determinations in writing, and such Secretary shall
11 deny a permit which he or she finds does not fully meet
12 the requirements of this paragraph:

13 (A) The permit application, operations plan,
14 and reclamation plan are complete and accurate.

15 (B) The applicant has demonstrated that the
16 proposed reclamation in the reclamation plan can be
17 accomplished.

18 (C) The proposed mineral activities and condi-
19 tion of the land including the fish and wildlife re-
20 sources and habitat contained thereon, after the
21 completion of mineral activities and final reclama-
22 tion conform to the land use plan applicable to the
23 area subject to mineral activities.

24 (D) The area subject to the proposed plan is
25 not included within an area designated unsuitable or

1 not open to location for the types of mineral activi-
2 ties proposed.

3 (E) The applicant has demonstrated that the
4 mineral activities will be in compliance with this title
5 and all other applicable Federal requirements, and
6 any State requirements agreed to by the appropriate
7 Secretary pursuant to cooperative agreements under
8 section 218.

9 (F) The assessment of the probable cumulative
10 impact of all anticipated mining in the area on the
11 hydrologic balance specified in subsection (b)(10)
12 has been made and the proposed operation has been
13 designed to minimize disturbances to the prevailing
14 hydrologic balance of the permit area.

15 (G) The applicant has fully complied with the
16 requirements of section 216 (relating to financial as-
17 surance).

18 (2) Issuance of an operations permit under this sec-
19 tion shall be based on information supplied by the appli-
20 cant or other interested parties and the applicant shall
21 have the burden of establishing that the application com-
22 plies with paragraph (1).

23 (3) With respect to any activities specified in the rec-
24 lamation plan referred to in subsection (b) which con-
25 stitute a removal or remedial action under section 101 of

1 the Comprehensive Environmental Response, Compensa-
2 tion and Liability Act of 1980, the Secretary shall consult
3 with the Administrator of the Environmental Protection
4 Agency prior to the issuance of an operating permit. To
5 the extent practicable, the Administrator shall ensure that
6 the reclamation plan does not require activities which
7 would increase the costs or likelihood of removal or reme-
8 dial actions under Comprehensive Environmental Re-
9 sponse, Compensation and Liability Act of 1980 or correc-
10 tive actions under the Solid Waste Disposal Act.

11 (e) TERM OF PERMIT; RENEWAL.—(1) An operations
12 permit shall be for a stated term. The term shall be no
13 greater than that necessary to accomplish the proposed
14 mineral activities subject to the permit, and in no case
15 for more than 10 years, unless the applicant demonstrates
16 to the satisfaction of the Secretary, or for National Forest
17 System lands the Secretary of Agriculture, that a specified
18 longer term is reasonably needed for such mineral activi-
19 ties.

20 (2) Failure by the operator to commence mineral ac-
21 tivities within one year of the date scheduled in an oper-
22 ations permit shall require a modification of the permit
23 unless the Secretary concerned determines that the delay
24 was beyond the control of the applicant.

1 (3) An operations permit shall carry with it the right
2 of successive renewal upon expiration only with respect to
3 operations on areas within the boundaries of the existing
4 permit as issued. A renewal of such permit shall not be
5 issued if such Secretary determines, in writing, any of the
6 following:

7 (A) The terms and conditions of the existing
8 permit are not being met.

9 (B) The operator has not demonstrated that
10 the financial assurance would continue to apply in
11 full force and effect for the renewal term.

12 (C) Any additional revised or updated informa-
13 tion required by the Secretary concerned has not
14 been provided.

15 (D) The applicant has not demonstrated that
16 the mineral activities will be in compliance with the
17 requirements of all other applicable Federal require-
18 ments, and any State requirements agreed to by the
19 Secretary concerned pursuant to cooperative agree-
20 ments under section 218.

21 (4) A renewal of an operations permit shall be for
22 a term of 10 years or for such additional term as the Sec-
23 retary concerned deems appropriate. Application for re-
24 newal shall be made at least one year prior to the expira-
25 tion of the existing permit. Where a renewal application

1 has been timely submitted and a permit expires prior to
2 Secretarial action on the renewal application, reclamation
3 shall and other mineral activities may continue in accord-
4 ance with the terms of the expired permit until the Sec-
5 retary concerned makes a decision on the renewal applica-
6 tion.

7 (f) PERMIT MODIFICATION.—(1) During the term of
8 an operations permit the operator may submit an applica-
9 tion to modify the permit (including the operations plan
10 or reclamation plan, or both). To approve a proposed
11 modification, the Secretary, or for National Forest System
12 lands the Secretary of Agriculture, shall make the same
13 determinations as are required in the case of an original
14 operations permit, except that the Secretaries may estab-
15 lish joint rules regarding the extent to which requirements
16 for original permits under this section shall apply to appli-
17 cations to modify a permit based on whether such modi-
18 fications are deemed significant or minor. Such rules shall
19 provide that all requirements applicable to a new permit
20 shall apply to any extension of the area covered by the
21 permit (except for incidental boundary revisions).

22 (2) The Secretary, or for National Forest System
23 lands the Secretary of Agriculture, may, at any time, re-
24 quire reasonable modification to any operations plan or
25 reclamation plan upon a determination that the require-

1 ments of this title cannot be met if the plan is followed
2 as approved. Such determination shall be based on a writ-
3 ten finding and subject to notice and hearing requirements
4 established by the Secretary concerned.

5 (g) TEMPORARY CESSATION OF OPERATIONS.—(1)

6 No operator conducting mineral activities under an oper-
7 ations permit in effect under this subtitle may temporarily
8 cease mineral activities for a period of 180 days or more
9 under an operations permit unless the Secretary concerned
10 has approved such temporary cessation or unless the tem-
11 porary cessation is permitted under the original permit.
12 Any operator temporarily ceasing mineral activities for a
13 period of 180 days or more under an existing operations
14 permit shall submit, before the expiration of such 180-day
15 period, a complete application for temporary cessation of
16 operations to the Secretary concerned for approval unless
17 the temporary cessation is permitted under the original
18 permit.

19 (2) An application for approval of temporary ces-
20 sation of operations shall include such provisions as pre-
21 scribed by the Secretary concerned, including but not lim-
22 ited to the steps that shall be taken during the cessation
23 of operations period to minimize impacts on the environ-
24 ment. After receipt of a complete application for tem-
25 porary cessation of operations such Secretary shall con-

1 duct an inspection of the area for which temporary ces-
2 sation of operations has been requested.

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

6 (A) A determination that the methods for se-
7 curing surface facilities and restricting access to the
8 permit area, or relevant portions thereof, will effec-
9 tively ensure against hazards to the health and safe-
10 ty of the public and fish and wildlife.

11 (B) A determination that reclamation is in com-
12 pliance with the approved reclamation plan, except
13 in those areas specifically designated in the applica-
14 tion for temporary cessation of operations for which
15 a delay in meeting such standards is necessary to fa-
16 cilitate the resumption of operations.

17 (C) A determination that the amount of finan-
18 cial assurance filed with the permit application is
19 sufficient to assure completion of the reclamation ac-
20 tivities identified in the approved reclamation plan in
21 the event of forfeiture.

22 (D) A determination that any outstanding no-
23 tices of violation and cessation orders incurred in
24 connection with the plan for which temporary ces-
25 sation is being requested are either stayed pursuant

1 to an administrative or judicial appeal proceeding or
2 are in the process of being abated to the satisfaction
3 of the Secretary concerned.

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

12 (i) FEES.—Each application for a permit pursuant
13 to this section shall be accompanied by a fee payable to
14 the Secretary of the Interior in such amount as may be
15 established by such Secretary. Such amount shall be equal
16 to the actual or anticipated cost to the Secretary, or for
17 National Forest System lands the Secretary of Agri-
18 culture, of reviewing, administering, and enforcing such
19 permit, as determined by the Secretary of the Interior. All
20 moneys received under this subsection shall be deposited
21 in the Abandoned Locatable Minerals Mine Reclamation
22 Fund established under subtitle C of this title.

23 (j) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—
24 (1) No transfer, assignment, or sale of rights granted by
25 a permit under this section shall be made without the prior

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

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

8 (A) is eligible to receive a permit in accordance
9 with section 215;

10 (B) has submitted evidence of financial assur-
11 ance satisfactory under section 216; and

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

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

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

1 culture of reviewing and approving or disapproving such
2 transfer, assignment, or sale, as determined by the Sec-
3 retary of the Interior. All moneys received under this sub-
4 section shall be deposited in the Abandoned Locatable
5 Minerals Mine Reclamation Fund established under sub-
6 title C of this title.

7 **SEC. 215. PERSONS INELIGIBLE FOR PERMITS.**

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

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

19 (2) An applicable toxic substance, solid waste,
20 air, water quality, or fish and wildlife conservation
21 law or regulation at any site where mining,
22 beneficiation, or processing activities are occurring
23 or have occurred.

24 (3) The Surface Mining Control and Reclama-
25 tion Act of 1977 (30 U.S.C. 1201 and following) or

1 any regulation implementing that Act at any site
2 where surface coal mining operations have occurred
3 or are occurring.

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

11 (c) CORRECTION.—(1) The Secretary, or for National
12 Forest System lands the Secretary of Agriculture, may
13 issue or reinstate a permit under this subtitle if the appli-
14 cant submits proof that the violation referred to in sub-
15 section (a) or (b) has been corrected or is in the process
16 of being corrected to the satisfaction of such Secretary or
17 if the applicant submits proof that the violator has filed
18 and is presently pursuing, a direct administrative or judi-
19 cial appeal to contest the existence of the violation. For
20 purposes of this section, an appeal of any applicant's rela-
21 tionship to an affiliate shall not constitute a direct admin-
22 istrative or judicial appeal to contest the existence of the
23 violation.

24 (2) Any permit which is issued or reinstated based
25 upon proof submitted under this subsection shall be condi-

1 tionally approved or conditionally reinstated, as the case
2 may be. If the violation is not successfully abated or the
3 violation is upheld on appeal, the permit shall be sus-
4 pended or revoked.

5 (d) **PATTERN OF WILLFUL VIOLATIONS.**—No permit
6 under this title may be issued to any applicant if there
7 is a demonstrated pattern of willful violations of the sur-
8 face management requirements of this title by the appli-
9 cant, any affiliate of the applicant, or the operator or
10 claim holder if different than the applicant, and such vio-
11 lations are of such nature and duration, and with such
12 resulting irreparable damage to the environment, as to
13 clearly indicate an intent not to comply with the surface
14 management requirements.

15 **SEC. 216. FINANCIAL ASSURANCE.**

16 (a) **FINANCIAL ASSURANCE REQUIRED.**—(1) Before
17 any permit is issued under this subtitle, the operator shall
18 file with the Secretary, or for National Forest System
19 lands the Secretary of Agriculture, evidence of financial
20 assurance payable to the United States on a form pre-
21 scribed and furnished by such Secretary and conditional
22 upon faithful performance of such permit and all other
23 requirements of this title. The financial assurance shall
24 be provided in the form of a surety bond, trust fund, let-
25 ters of credits, government securities, cash or equivalent.

1 (2) The financial assurance shall cover all lands with-
2 in the initial permit area and shall be extended to cover
3 all lands added pursuant to any permit modification made
4 under section 213(f), section 214(f), or section 214(h).
5 The financial assurance shall cover all lands to be affected
6 by mineral activities as described and depicted in the per-
7 mit application.

8 (b) AMOUNT.—The amount of the financial assur-
9 ance required under this section shall be sufficient to as-
10 sure the completion of reclamation satisfying the require-
11 ments of this title if the work were to be performed by
12 the Secretary concerned in the event of forfeiture. The cal-
13 culation of such amount shall take into account the maxi-
14 mum level of financial exposure which shall arise during
15 the mineral activity.

16 (c) DURATION.—The financial assurance required
17 under this section shall be held for the duration of the
18 mineral activities and for an additional period to cover the
19 operator's responsibility for revegetation as specified
20 under subsection 217(b)(6)(B), and effluent treatment as
21 specified in subsection (g).

22 (d) ADJUSTMENTS.—The amount of the financial as-
23 surance and the terms of the acceptance of the assurance
24 may be adjusted by the Secretary concerned from time to
25 time as the area requiring coverage is increased or de-

1 creased, or where the costs of reclamation or treatment
2 change, or pursuant to section 214(h), but the financial
3 assurance must otherwise be in compliance with this sec-
4 tion. The Secretary concerned shall specify periodic times,
5 or set a schedule, for reevaluating or adjusting the amount
6 of financial assurance.

7 (e) RELEASE.—Upon request, and after notice and
8 opportunity for public comment, and after inspection by
9 the Secretary, or for National Forest System lands the
10 Secretary of Agriculture, such Secretary may, after con-
11 sultation with the Administrator of the Environmental
12 Protection Agency, release in whole or in part the financial
13 assurance required under this section if the Secretary
14 makes both of the following determinations:

15 (1) A determination that reclamation covered
16 by the financial assurance has been accomplished as
17 required by this title.

18 (2) A determination that the operator has de-
19 clared that the terms and conditions of any other
20 applicable Federal requirements, and State require-
21 ments applicable pursuant to cooperative agreements
22 under section 218, have been fulfilled.

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

1 (1) After the operator has completed any re-
2 quired backfilling, regrading, and drainage control of
3 an area subject to mineral activities and covered by
4 the financial assurance, and has commenced
5 revegetation on the regraded areas subject to min-
6 eral activities in accordance with the approved plan,
7 that portion of the total financial assurance secured
8 for the area subject to mineral activities attributable
9 to the completed activities may be released.

10 (2) After the operator has completed success-
11 fully all remaining mineral activities and reclamation
12 activities and all requirements of the operations plan
13 and the reclamation plan (including the provisions of
14 section 217(b)(6)(B) relating to revegetation and ef-
15 fluent treatment required by subsection (g)), and all
16 other requirements of this title have in fact been
17 fully met, the remaining portion of the financial as-
18 surance may be released.

19 During the period following release of the financial assur-
20 ance as specified in paragraph (1), until the remaining
21 portion of the financial assurance is released as provided
22 in paragraph (2), the operator shall be required to comply
23 with the permit issued under this subtitle.

24 (g) EFFLUENT.—Where any discharge resulting from
25 the mineral activities requires treatment in order to meet

1 the applicable effluent limitations, the financial assurance
2 shall include the estimated cost of maintaining such treat-
3 ment for the projected period that will be needed after
4 the cessation of mineral activities. The portion of the fi-
5 nancial assurance attributable to such estimated cost of
6 treatment shall not be released until the discharge has
7 ceased, or, if the discharge continues, until the operator
8 has met all applicable effluent limitations and water qual-
9 ity standards for 5 full years without treatment.

10 (h) ENVIRONMENTAL HAZARDS.—If the Secretary,
11 or for National Forest System lands the Secretary of Agri-
12 culture, determines, after final release of financial assur-
13 ance, that an environmental hazard resulting from the
14 mineral activities exists, or the terms and conditions of
15 the operations permit of this title were not fulfilled in fact
16 at the time of release, such Secretary shall issue an order
17 under section 247 requiring the claimholder or operator
18 (or any person who controls the claimholder or operator)
19 to correct the condition.

20 **SEC. 217. RECLAMATION.**

21 (a) GENERAL RULE.—(1) Except as provided under
22 paragraphs (5) and (7) of subsection (b), the operator
23 shall restore lands subject to mineral activities carried out
24 under a permit issued under this subtitle to a condition
25 capable of supporting—

1 (A) the uses, including fish and wildlife habitat
2 uses, which such lands were capable of supporting
3 prior to surface disturbance by the operator, or

4 (B) other beneficial uses which conform to ap-
5 plicable land use plans as determined by the Sec-
6 retary or for National Forest System lands, the Sec-
7 retary of Agriculture.

8 (2) Reclamation shall proceed as contemporaneously
9 as practicable with the conduct of mineral activities and
10 shall use, with respect to this subsection and subsection
11 (b), the best technology currently available. To the extent
12 practicable, reclamation shall be conducted in a manner
13 that does not increase the costs or likelihood of a removal
14 or remedial action under section 101 of the Comprehensive
15 Environmental Response, Compensation and Liability Act
16 of 1980 or a corrective action under the Solid Waste Dis-
17 posal Act.

18 (b) RECLAMATION STANDARDS.—Mineral activities
19 shall be conducted in accordance with the following stand-
20 ards; as well as any additional standards the Secretaries
21 may jointly promulgate under section 211 and subsection
22 (a) of this section to address specific environmental im-
23 pacts of selected methods of mining:

24 (1) SOILS.—(A) Soils, including top soils and
25 subsoils removed from lands subject to mineral ac-

1 tivities shall be segregated from waste material and
2 protected for later use in reclamation. If such soil is
3 not replaced on a backfill area within a time-frame
4 short enough to avoid deterioration of the topsoil,
5 vegetative cover or other means shall be used so that
6 the soil is preserved from wind and water erosion,
7 remains free of contamination by acid or other toxic
8 material, and is in a usable condition for sustaining
9 vegetation when restored during reclamation.

10 (B) In the event the topsoil from lands subject
11 to mineral activities is of insufficient quantity or of
12 inferior quality for sustaining vegetation, and other
13 suitable growth media removed from the lands sub-
14 ject to the mineral activities are available that shall
15 support vegetation, the best available growth me-
16 dium shall be removed, segregated and preserved in
17 a like manner as under subparagraph (A) for sus-
18 taining vegetation when restored during reclamation.

19 (C) In the event the soil (other than topsoil)
20 from lands subject to mineral activities is of insuffi-
21 cient quantity or of inferior quality for sustaining
22 vegetation, and other suitable growth media removed
23 from the lands subject to the mineral activities are
24 available that support revegetation, these substitute
25 materials shall be removed, segregated or preserved

1 in a like manner as under subparagraph (A) for
2 later use in reclamation.

3 (D) Mineral activities shall be conducted to pre-
4 vent contamination of soils to the extent possible
5 using the best technology currently available. If con-
6 tamination occurs, the operator shall decontaminate
7 or dispose of any contaminated soils which have re-
8 sulted from the mineral activities.

9 (2) STABILIZATION.—All surface areas subject
10 to mineral activities, including segregated soils or
11 other growth medium, waste material piles, ore piles,
12 subgrade ore piles, and open or partially backfilled
13 mine pits which meet the requirements of paragraph
14 (5) shall be stabilized and protected during mineral
15 activities so as to effectively control fugitive dust
16 and erosion and otherwise comply with toxic sub-
17 stance, solid waste, air and water pollution control
18 laws and other environmental laws.

19 (3) SEDIMENTS, EROSION, AND DRAINAGE.—
20 Facilities such as but not limited to basins, ditches,
21 stream bank stabilization, diversions or other meas-
22 ures, shall be designed, constructed and maintained
23 where necessary to control sediments, erosion, and
24 drainage of the area subject to mineral activities.

1 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-
2 tivities shall be conducted to minimize disturbances
3 to the prevailing hydrologic balance of the permit
4 area and surrounding watershed existing prior to the
5 mineral activities in the permit area and in the sur-
6 rounding watershed, as established by the baseline
7 information provided pursuant to section
8 214(b)(10). Hydrologic balance includes the quality
9 and quantity of ground water and surface water and
10 their interrelationships, including recharge and dis-
11 charge rates. In all cases, the operator shall comply
12 with Federal and State laws related to the quality
13 and quantity of such waters.

14 (B) Mineral activities shall be conducted using
15 the technology standard referred to in subsection
16 (a)(2) to prevent where possible the formation of
17 acidic, toxic or other contaminated water. Where the
18 formation of acidic, toxic or other contaminated
19 water occurs despite the use of such technology
20 standard, mineral activities shall be conducted using
21 such technology so as to minimize the formation of
22 acidic, toxic or other contaminated water.

23 (C) Mineral activities shall prevent any con-
24 tamination of surface and ground water with acid or
25 other toxic mine pollutants and shall prevent or re-

1 move water from contact with acid or toxic produc-
2 ing deposits.

3 (D) Reclamation shall restore approximate hy-
4 drologic balance existing prior to the mineral activi-
5 ties.

6 (E) Where the quality of surface water or
7 ground water used for domestic, municipal, agricul-
8 tural, or industrial purposes is adversely impacted
9 by mineral activities, such water shall be treated, or
10 replaced with the same quantity and approximate
11 quality of water, comparable to premining conditions
12 as established in paragraph (10) of section 214(b).

13 (5) SURFACE RESTORATION.—(A) The surface
14 area disturbed by mineral activities shall be shaped,
15 graded, and contoured to its natural topography.
16 Backfilling of an open pit mine shall be required
17 only if the Secretary, or for National Forest System
18 lands the Secretary of Agriculture, finds that such
19 open pit or partially backfilled, graded, or contoured
20 pit would pose a significant threat to the public
21 health safety or have a significant adverse effect on
22 the environment in terms of surface water or
23 groundwater pollution.

24 (B) In instances where complete backfilling of
25 an open pit is not required, the pit shall be graded

1 to blend with the surrounding topography as much
2 as practicable and revegetated in accordance with
3 paragraph (6).

4 (6) VEGETATION.—(A) The area subject to
5 mineral activities shall be vegetated in order to es-
6 tablish a diverse, effective and permanent vegetative
7 cover of the same seasonal variety native to the area
8 subject to mineral activities, capable of self-regen-
9 eration and plant succession and at least equal in
10 extent of cover to the natural revegetation of the
11 surrounding area, except that introduced species
12 may be used at the discretion of the Secretary, or
13 for National Forest System lands the Secretary of
14 Agriculture, in consultation with the Director, Fish
15 and Wildlife Service, if such introduction of such
16 species is necessary as an interim step in, and is
17 part of a program to restore a native plant commu-
18 nity. In such instances where the complete backfill
19 of an open mine pit is not required under paragraph
20 (5), such Secretary shall prescribe such vegetation
21 requirements as conform to the applicable land use
22 plan.

23 (B) In order to insure compliance with subpara-
24 graph (A), the period for determining successful
25 revegetation shall be for a period of 5 full years

1 after the last year of augmented seeding, fertilizing,
2 irrigation or other work, except that such period
3 shall be 10 full years where the annual average pre-
4 cipitation is 26 inches or less. The period may be
5 for a longer time at the discretion of the Secretary
6 concerned where the average precipitation is 26
7 inches or less.

8 (7) EXCESS WASTE.—(A) Waste material in ex-
9 cess of that required to comply with paragraph (5)
10 shall be transported and placed in approved areas,
11 in a controlled manner in such a way so as to assure
12 long-term mass stability, to prevent mass movement
13 and to facilitate reclamation. In addition to the
14 measures described under paragraph (3), internal
15 drainage systems shall be employed, as may be re-
16 quired, to control erosion and drainage. The design
17 of such excess waste material piles shall be certified
18 by a qualified professional engineer.

19 (B) Excess waste material piles shall be graded
20 and contoured to blend with the surrounding topog-
21 raphy as much as practicable and revegetated in ac-
22 cordance with paragraph (6).

23 (8) SEALING.—All drill holes, and openings on
24 the surface associated with underground mineral ac-
25 tivities, shall be backfilled, sealed or otherwise con-

1 trolled when no longer needed for the conduct of
2 mineral activities to ensure protection of the public
3 and the environment, and management of fish and
4 wildlife and livestock.

5 (9) STRUCTURES.—All buildings, structures or
6 equipment constructed, used or improved during
7 mineral activities shall be removed, unless the Sec-
8 retary concerned in consultation with the affected
9 land managing agency, determines that use of the
10 buildings, structures or equipment would be consist-
11 ent with subsection (a) or for environmental mon-
12 itoring and the Secretary concerned takes ownership
13 of such structures.

14 (10) FISH AND WILDLIFE.—Fish and wildlife
15 habitat in areas subject to mineral activities shall be
16 restored in a manner commensurate with or superior
17 to habitat conditions which existed prior to the min-
18 eral activities, including such conditions as may be
19 prescribed by the Director, Fish and Wildlife
20 Service.

21 (c) APPLICATION OF RECLAMATION STANDARDS TO
22 EXPLORATION.—The provisions of this section shall apply
23 to mineral exploration pursuant to a permit under this
24 title, except that paragraphs (5) and (6) of subsection (b)
25 shall not apply during any interim periods between com-

1 pletion of the approved exploration and the commence-
2 ment of further mineral activities, not to exceed 2 years,
3 if the operator maintains a sufficient financial assurance
4 to reclaim the disturbed surface should further mineral ac-
5 tivities not be authorized. The Secretary concerned shall
6 prescribe standards for interim stabilization and
7 revegetation.

8 (d) SPECIAL RULE.—A modified reclamation plan
9 shall not be required for mineral activities related to rec-
10 lamation where a mining claim is forfeited, relinquished
11 or lapsed, or a plan is revoked or suspended or has expired
12 in any such case. Reclamation activities shall continue
13 only as approved by the Secretary, or for National Forest
14 System lands the Secretary of Agriculture, pursuant to the
15 previously approved reclamation plan.

16 (e) DEFINITIONS.—As used in this section:

17 (1) The term “best technology currently avail-
18 able” means equipment, devices, systems, methods,
19 or techniques which have demonstrated engineering
20 and economic feasibility, success and practicality.
21 Within the constraints of the surface management
22 requirements of this title, the Secretary, or for Na-
23 tional Forest System lands the Secretary of Agri-
24 culture, shall have the discretion to determine the

1 best technology currently available on a case-by-case
2 basis.

3 (2) The term “waste material” means the mate-
4 rial resulting from mineral activities involving ex-
5 traction, beneficiation and processing, including but
6 not limited to tailings, and such material resulting
7 from mineral activities involving processing, to the
8 extent such material is not subject to subtitle III of
9 the Solid Waste Disposal Act or the Uranium Mill
10 Tailings Radiation Control Act.

11 (3) The term “ore piles” means ore stockpiled
12 for beneficiation prior to the completion of mineral
13 activities.

14 (4) The term “subgrade ore” means ore that is
15 too low in grade to be processed at the time of ex-
16 traction but which could reasonably be processed in
17 the foreseeable future.

18 (5) The term “soil” means the earthy or sandy
19 layer, ranging in thickness from a few inches to sev-
20 eral feet, composed of finely divided rock debris, of
21 whatever origin, mixed with decomposing vegetal and
22 animal matter, which forms the surface of the
23 ground and in which plants grow or may grow.

1 **SEC. 218. STATE LAW AND REGULATION.**

2 (a) STATE LAW.—(1) Any reclamation standard or
3 requirement in State law or regulation that meets or ex-
4 ceeds the requirements of section 217 shall not be con-
5 strued to be inconsistent with any such standard.

6 (2) Any bonding standard or requirement in State
7 law or regulation that meets or exceeds the requirements
8 of section 216 shall not be construed to be inconsistent
9 with such requirements.

10 (3) Any inspection standard or requirement in State
11 law or regulation that meets or exceeds the requirements
12 of section 244 shall not be construed to be inconsistent
13 with such requirements.

14 (b) APPLICABILITY OF OTHER STATE REQUIRE-
15 MENTS.—(1) Nothing in this title shall be construed as
16 affecting any toxic substance, solid waste, or air or water
17 quality, standard or requirement of any State law or regu-
18 lation, or of tribal law or regulation, which may be applica-
19 ble to mineral activities on lands subject to this title.

20 (2) Nothing in this title shall be construed as affect-
21 ing in any way the right of any person to enforce or pro-
22 tect, under applicable law, such person's interest in water
23 resources affected by mineral activities on lands subject
24 to this title.

25 (c) COOPERATIVE AGREEMENTS.—(1) Any State
26 may enter into a cooperative agreement with the Sec-

1 retary, or for National Forest System lands the Secretary
2 of Agriculture, for the purposes of such Secretary applying
3 such standards and requirements referred to in subsection
4 (a) and subsection (b) to mineral activities or reclamation
5 on lands subject to this title.

6 (2) In such instances where the proposed mineral ac-
7 tivities would affect lands not subject to this title in addi-
8 tion to lands subject to this title, in order to approve a
9 plan of operations the Secretary concerned shall enter into
10 a cooperative agreement with the State that sets forth a
11 common regulatory framework consistent with the surface
12 management requirements of this title for the purposes
13 of such plan of operations.

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

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

1 standing shall only be applicable to plans of operations
2 approved by the Secretary concerned prior to the effective
3 date of this title.

4 (e) DELEGATION.—The Secretary, or for National
5 Forest System lands the Secretary of Agriculture, shall
6 not delegate to any State, or political subdivision thereof,
7 the Secretary's authorities, duties and obligations under
8 this title, including with respect to any cooperative agree-
9 ments entered into under this section.

10 (f) PREEMPTION.—Subject to section 252(b), the re-
11 quirements of this title shall preempt any conflicting re-
12 quirements of any State, or political subdivision thereof
13 relating to mineral activities for locatable minerals.

14 **SEC. 219. UNSUITABILITY REVIEW.**

15 (a) AUTHORITY.—(1) As provided for in this section,
16 the Secretary of the Interior, in carrying out the Sec-
17 retary's responsibilities under the Federal Land Policy
18 and Management Act of 1976, and the Secretary of Agri-
19 culture, in carrying out the Secretary's responsibilities
20 under the Forest and Rangeland Renewable Resources
21 Planning Act of 1974, as amended by the National Forest
22 Management Act of 1976, shall each review lands that are
23 subject to this title in order to determine, in accordance
24 with the provisions of subsection (b), whether there are
25 any areas on such lands which are either unsuitable for

1 all types of mineral activities or conditionally suitable for
2 certain types of mineral activities.

3 (2) Any determination made in accordance with sub-
4 section (b) shall be immediately effective. Such determina-
5 tion shall be incorporated into the applicable land use plan
6 when such plan is adopted, revised, or significantly amend-
7 ed pursuant to provisions of law other than this title.

8 (3) In any instance where a determination is made
9 in accordance with subsection (b) that an area is condi-
10 tionally suitable for all or certain mineral activities, the
11 Secretary concerned shall take appropriate steps to notify
12 the public that any operations permit application relevant
13 to that area shall be conditioned accordingly.

14 (b) SPECIAL CHARACTERISTICS.—(1) The Secretary,
15 or for National Forest System lands the Secretary of Agri-
16 culture, shall determine that an area open to location is
17 unsuitable for all or certain mineral activities if such Sec-
18 retary finds that such activities would result in significant,
19 permanent and irreparable damage to special characteris-
20 ties as described in paragraph (3) which cannot be pre-
21 vented by the imposition of conditions in the operations
22 permit required under section 214 (b).

23 (2) The Secretary, or for National Forest System
24 lands, the Secretary of Agriculture, may determine, after
25 notice and opportunity for public comment, that an area

1 is conditionally suitable for all or certain types of mineral
2 activities, if the Secretary concerned determines that any
3 of the special characteristics of such area, as listed in
4 paragraph (3), require protection from the effects of min-
5 eral activities.

6 (3) Any of the following shall be considered special
7 characteristics of an area which contains lands or interests
8 in lands open to location under this title:

9 (A) The existence of significant water quality or
10 supplies in or associated with such area, such as
11 aquifers and aquifer recharge areas.

12 (B) The presence in such area of publicly
13 owned places which are listed on or are determined
14 eligible for listing on the National Register of His-
15 toric Places.

16 (C) The designation of all or any portion of
17 such area or any adjacent area as a National Con-
18 servation System unit.

19 (D) The designation of all or any portion of
20 such area or any adjacent area as critical habitat for
21 threatened or endangered species under the Endan-
22 gered Species Act of 1973.

23 (E) The designation of all or any portion of
24 such area as Class I under section 162 of the Clean
25 Air Act (42 U.S.C. 7401).

1 (F) The presence of such other resource values
2 as the Secretary, or for National Forest System
3 lands, the Secretary of Agriculture, may, by joint
4 rule, specify based upon field testing that verifies
5 such criteria.

6 (c) PERMIT APPLICATION PRIOR TO REVIEW.—(1) If
7 an area covered by an application for a permit required
8 under section 214, has not been reviewed pursuant to sub-
9 section (a) prior to submission of the application, the Sec-
10 retary, or for National Forest System lands, the Secretary
11 of Agriculture, shall review the area that would be affected
12 by the proposed mineral activities to determine, according
13 to the provisions of subsection (b), whether the area is
14 unsuitable for all types of mineral activities or condi-
15 tionally suitable for certain types of mineral activities.
16 Such review and determination shall precede the final de-
17 cision on the permit application.

18 (2) The Secretary concerned shall use such review in
19 the next revision or significant amendment to the applica-
20 ble land use plan to the extent necessary to reflect the
21 unsuitability or conditional suitability of such lands.

22 (d) EFFECT OF DETERMINATION.—(1) In any in-
23 stance in which a determination of unsuitability is made
24 for any area in accordance with subsection (b)(1), all min-
25 eral activities shall be prohibited in such area, and the

1 Secretary shall (with the consent of the Secretary of Agri-
2 culture for National Forest System lands) withdraw such
3 area pursuant to section 204 of the Federal Land Policy
4 and Management Act of 1976 (43 U.S.C. 1714). The Sec-
5 retary's determination under this section shall constitute
6 the documentation required to be provided under section
7 204(c)(12) of the Federal Land Policy and Management
8 Act of 1976 (43 U.S.C. 1714).

9 (2) In any instance where the Secretary, or for Na-
10 tional Forest System lands, the Secretary of Agriculture,
11 determines in accordance with subsection (b)(2) that, by
12 reason of any of the special characteristics listed in sub-
13 section (b)(3), an area is conditionally suitable for all or
14 certain mineral activities, the Secretary concerned shall in-
15 clude such additional conditions in each permit for mineral
16 activities in such area as necessary to limit or control min-
17 eral activities to the extent necessary to protect the special
18 characteristics concerned.

19 (3) Nothing in this section shall be construed as af-
20 fecting lands where mineral activities were being con-
21 ducted on the date of enactment of this Act under ap-
22 proved plans of operations or under notice (as provided
23 for in the regulations of the Secretary of the Interior in
24 effect prior to the date of enactment of this Act relating

1 to operations that cause a cumulative disturbance of 5
2 acres or less).

3 (4) Nothing in this section shall be construed as pro-
4 hibiting mineral activities at a specific site, where substan-
5 tial legal and financial commitments in such mineral ac-
6 tivities were in existence on the date of enactment of this
7 Act, but nothing in this section shall be construed as pro-
8 hibiting either Secretary from regulating such activities in
9 accordance with other authority of law. As used in this
10 paragraph, the term “substantial legal and financial com-
11 mitments” means, with respect to a specific site, signifi-
12 cant investments, expenditures, or undertakings that have
13 been made to explore or develop any mining claim or and
14 millsite located at such site under the general mining laws
15 or converted under this title, such as but not limited to:
16 contracts for minerals produced; construction; contracts
17 for the construction; or commitment to raise capital for
18 the construction of processing, beneficiation, extraction, or
19 refining facilities, or transportation or utility infrastruc-
20 ture; exploration activities conducted to delineate proven
21 or probable ore reserves; acquisition of mining claims (but
22 only if such acquisition is part of other significant invest-
23 ments specified in this paragraph); and such other costs
24 or expenditures related to mineral activities at such site
25 as are similar to the foregoing itemized costs or expendi-

1 tures and as may be specified by the Secretaries by joint
2 rule.

3 (e) WITHDRAWAL REVIEW.—(1) In carrying out the
4 responsibilities referred to in subsection (a), the Secretary
5 or, for National Forest System lands, the Secretary of Ag-
6 riculture, shall review all administrative withdrawals of
7 land under such Secretary’s jurisdiction (other than wil-
8 derness study areas) to determine whether the revocation
9 or modification of such withdrawal for the purpose of al-
10 lowing such lands to be opened to the location of mining
11 claims under this title is appropriate as a result of either
12 of the following:

13 (A) The imposition of any conditions imposed
14 as part of the land use planning process or the im-
15 position of any conditions as a result to the review
16 process under subsection (a).

17 (B) The limitation of section 255 (relating to
18 limitation on patent issuance).

19 (2) The Secretary concerned shall publish the review
20 referred to in paragraph (1) in the Federal Register no
21 later than 1 year after the date of enactment of this Act.
22 After providing notice and opportunity for comment, the
23 Secretary may issue a revocation or modification of such
24 administrative withdrawals as he deems appropriate by

1 reason of the criteria listed in subparagraph (A) or (B)
2 of paragraph (1).

3 (f) **EXPLORATION REVIEWS.**—In conjunction with re-
4 view of a permit application submitted pursuant to section
5 213, and upon request of the applicant, the Secretary, or
6 for National Forest System lands, the Secretary of Agri-
7 culture, shall review the area proposed to be affected by
8 mineral activities to determine whether the area would be
9 unsuitable or conditionally suitable for all or certain min-
10 eral activities.

11 **SEC. 220. CERTAIN MINERAL ACTIVITIES COVERED BY**
12 **OTHER LAW.**

13 This subtitle shall not apply to any mineral activities
14 which are subject to the Stock Raising Homestead Act.

15 **Subtitle C—Abandoned Locatable**
16 **Minerals Mine Reclamation Fund**

17 **SEC. 231. ABANDONED LOCATABLE MINERALS MINE REC-**
18 **LAMATION.**

19 (a) **ESTABLISHMENT.**—(1) There is established on
20 the books of the Treasury of the United States a trust
21 fund to be known as the Abandoned Locatable Minerals
22 Mine Reclamation Fund (hereinafter in this subtitle re-
23 ferred to as the “Fund”). The Fund shall be administered
24 by the Secretary acting through the Director of the Office
25 of Surface Mining Reclamation and Enforcement.

1 (2) The Secretary shall notify the Secretary of the
2 Treasury as to what portion of the Fund is not, in the
3 Secretary's judgment, required to meet current withdraw-
4 als. The Secretary of the Treasury shall invest such por-
5 tion of the Fund in public debt securities with maturities
6 suitable for the needs of such Fund and bearing interest
7 at rates determined by the Secretary of the Treasury, tak-
8 ing into consideration current market yields on outstand-
9 ing marketplace obligations of the United States of com-
10 parable maturities. The income on such investments shall
11 be credited to, and form a part of, the Fund.

12 (b) AMOUNTS.—The following amounts shall be cred-
13 ited to the Fund:

14 (1) All moneys received from the collection of
15 claim maintenance fees under section 207.

16 (2) All moneys collected pursuant to section
17 208 (relating to failure to comply), section 247 (re-
18 lating to enforcement) and section 245 (relating to
19 citizens suits).

20 (3) All permit fees and transfer fees received
21 under sections 213 and 214.

22 (4) All donations by persons, corporations, as-
23 sociations, and foundations for the purposes of this
24 subtitle.

1 (5) All amounts referred to in section 236 (re-
2 relating to royalties and penalties for underreporting).

3 (6) All other receipts from fees, royalties, pen-
4 alties and other sources collected under this title.

5 (c) ADMINISTRATIVE COSTS.—(1) In calculating the
6 amount to be deposited in the Fund during any fiscal year
7 under subsection (b), the enacted appropriation of the De-
8 partment of the Interior during the preceding year attrib-
9 utable to administering this title shall be deducted from
10 the total of the amounts listed in subsection (b) prior to
11 the transfer of such amounts to the Fund.

12 (2) The amount deducted under paragraph (1) of this
13 section shall be available to the Secretary, subject to ap-
14 propriation, for payment of the costs of administering this
15 title.

16 **SEC. 232. USE AND OBJECTIVES OF THE FUND.**

17 (a) IN GENERAL.—The Secretary is authorized, sub-
18 ject to appropriations, to use moneys in the Fund for the
19 reclamation and restoration of land and water resources
20 adversely affected by past mineral activities on lands the
21 legal and beneficial title to which resides in the United
22 States, land within the exterior boundary of any national
23 forest system unit, or other lands described in subsection
24 (d) or section 233, including any of the following:

1 (1) Prevention, abatement, treatment and con-
2 trol of water pollution created by abandoned mine
3 drainage.

4 (2) Reclamation and restoration of abandoned
5 surface and underground mined areas.

6 (3) Reclamation and restoration of abandoned
7 milling and processing areas.

8 (4) Backfilling, sealing, or otherwise control-
9 ling, abandoned underground mine entries.

10 (5) Revegetation of land adversely affected by
11 past mineral activities to prevent erosion and sedi-
12 mentation and to enhance wildlife habitat.

13 (6) Control of surface subsidence due to aban-
14 doned underground mines.

15 Moneys in the Fund shall also be available for purposes
16 of compensation (and other payments) under section 263.

17 (b) PRIORITIES.—To the extent that moneys in the
18 fund are in excess of the amount of compensation (and
19 other payments) paid under section 263, expenditures of
20 moneys from the Fund shall reflect the following priorities
21 in the order stated:

22 (1) The protection of public health, safety, gen-
23 eral welfare and property from extreme danger from
24 the adverse effects of past mineral activities, espe-

1 cially as relates to surface water and groundwater
2 contaminates.

3 (2) The protection of public health, safety, and
4 general welfare from the adverse effects of past min-
5 eral activities.

6 (3) The restoration of land, water and fish and
7 wildlife resources previously degraded by the adverse
8 effects of past mineral activities.

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

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

1 for reclamation and restoration under subsection (a) for
2 all directly affected lands.

3 (e) **RESPONSE OR REMOVAL ACTIONS.**—Reclamation
4 and restoration activities under this subtitle which con-
5 stitute a removal or remedial action under section 101 of
6 the Comprehensive Environmental Response, Compensa-
7 tion and Liability Act of 1980, shall be conducted with
8 the concurrence of the Administrator of the Environ-
9 mental Protection Agency. The Secretary and the Admin-
10 istrator shall enter into a Memorandum of Understanding
11 to establish procedures for consultation, concurrence,
12 training, exchange of technical expertise and joint activi-
13 ties under the appropriate circumstances, which provide
14 assurances that reclamation or restoration activities under
15 this subtitle, to the extent practicable, shall not be con-
16 ducted in a manner that increases the costs or likelihood
17 of removal or remedial actions under the Comprehensive
18 Environmental Response, Compensation and Liability Act
19 of 1980, and which avoid oversight by multiple agencies
20 to the maximum extent practicable.

21 **SEC. 233. ELIGIBLE LANDS AND WATERS.**

22 (a) **ELIGIBILITY.**—Reclamation expenditures under
23 this subtitle may only be made with respect to Federal
24 lands or Indian lands or water resources that traverse or
25 are contiguous to Federal lands or Indian lands where

1 such lands or waters resources have been affected by past
2 mineral activities, including any of the following:

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

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

13 (3) Lands for which it can be established that
14 such lands do not contain locatable minerals which
15 could economically be extracted through the reproc-
16 essing or remining of such lands, unless such consid-
17 erations are in conflict with the priorities set forth
18 under paragraphs (1) and (2) of section 232(b).

19 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
20 The provisions of section 411(d) of the Surface Mining
21 Control and Reclamation Act of 1977 shall apply to ex-
22 penditures made from the Fund established under this
23 subtitle.

24 (c) INVENTORY.—The Secretary shall prepare and
25 maintain an inventory of abandoned locatable minerals

1 mines on Federal lands and any abandoned mine on In-
2 dian lands which may be eligible for expenditures under
3 this subtitle.

4 **SEC. 234. FUND EXPENDITURES.**

5 Moneys available from the Fund may be expended for
6 the purposes specified in section 232 directly by the Direc-
7 tor of the Office of Surface Mining Reclamation and En-
8 forcement. The Director may also make such money avail-
9 able for such purposes to the Director of the Bureau of
10 Land Management, the Chief of the United States Forest
11 Service, the Director of the National Park Service, Direc-
12 tor of the United States Fish and Wildlife Service, to any
13 other agency of the United States, to an Indian tribe, or
14 to any public entity that volunteers to develop and imple-
15 ment, and that has the ability to carry out, all or a signifi-
16 cant portion of a reclamation program under this subtitle.

17 **SEC. 235. AUTHORIZATION OF APPROPRIATIONS.**

18 Amounts credited to the Fund are authorized to be
19 appropriated for the purpose of this subtitle without fiscal
20 year limitation.

21 **SEC. 236. ROYALTY.**

22 (a) RESERVATION OF ROYALTY.—Production of all
23 locatable minerals from any mining claim located or con-
24 verted under this title, or mineral concentrates or products
25 derived from locatable minerals from any mining claim lo-

1 cated or converted under this title, as the case may be,
2 shall be subject to a royalty of 8 percent of the net smelter
3 return from such production. The claimholder and any op-
4 erator to whom the claimholder has assigned the obliga-
5 tion to make royalty payments under the claim and any
6 person who controls such claimholder or operator shall be
7 jointly and severally liable for payment of such royalties.

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

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

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

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

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

6 (3) A person conducting mineral activities shall—

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

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

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

1 gin, and intended destination of the locatable mineral, con-
2 centrate, or product derived therefrom in such cir-
3 cumstances as the Secretary determines is appropriate.

4 (c) RECORDKEEPING AND REPORTING REQUIRE-
5 MENTS.—(1) A claim holder, operator, or other person di-
6 rectly involved in developing, producing, processing, trans-
7 porting, purchasing, or selling locatable minerals, con-
8 centrates, or products derived therefrom, subject to this
9 title, through the point of royalty computation shall estab-
10 lish and maintain any records, make any reports, and pro-
11 vide any information that the Secretary may reasonably
12 require for the purposes of implementing this section or
13 determining compliance with rules or orders under this
14 section. Such records shall include, but not be limited to,
15 periodic reports, records, documents, and other data. Such
16 reports may also include, but not be limited to, pertinent
17 technical and financial data relating to the quantity, qual-
18 ity, composition volume, weight, and assay of all minerals
19 extracted from the mining claim. Upon the request of any
20 officer or employee duly designated by the Secretary or
21 any State conducting an audit or investigation pursuant
22 to this section, the appropriate records, reports, or infor-
23 mation which may be required by this section shall be
24 made available for inspection and duplication by such offi-
25 cer or employee or State.

1 (2) Records required by the Secretary under this sec-
2 tion shall be maintained for 6 years after release of finan-
3 cial assurance under section 216 unless the Secretary noti-
4 fies the operator that he or she has initiated an audit or
5 investigation involving such records and that such records
6 must be maintained for a longer period. In any case when
7 an audit or investigation is underway, records shall be
8 maintained until the Secretary releases the operator of the
9 obligation to maintain such records.

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

21 (e) COOPERATIVE AGREEMENTS.—(1) The Secretary
22 is authorized to enter into cooperative agreements with the
23 Secretary of Agriculture to share information concerning
24 the royalty management of locatable minerals, con-
25 centrates, or products derived therefrom, to carry out in-

1 spection, auditing, investigation, or enforcement (not in-
2 cluding the collection of royalties, civil or criminal pen-
3 alties, or other payments) activities under this section in
4 cooperation with the Secretary, and to carry out any other
5 activity described in this section.

6 (2) Except as provided in paragraph (4)(A) of this
7 subsection (relating to trade secrets), and pursuant to a
8 cooperative agreement, the Secretary of Agriculture shall,
9 upon request, have access to all royalty accounting infor-
10 mation in the possession of the Secretary respecting the
11 production, removal, or sale of locatable minerals, con-
12 centrates, or products derived therefrom from claims on
13 lands open to location under this title.

14 (3) Trade secrets, proprietary, and other confidential
15 information shall be made available by the Secretary pur-
16 suant to a cooperative agreement under this subsection to
17 the Secretary of Agriculture upon request only if—

18 (A) the Secretary of Agriculture consents in
19 writing to restrict the dissemination of the informa-
20 tion to those who are directly involved in an audit
21 or investigation under this section and who have a
22 need to know;

23 (B) the Secretary of Agriculture accepts liabil-
24 ity for wrongful disclosure; and

1 (C) the Secretary of Agriculture demonstrates
2 that such information is essential to the conduct of
3 an audit or investigation under this subsection.

4 (f) INTEREST AND SUBSTANTIAL UNDERREPORTING
5 ASSESSMENTS.—(1) In the case of mining claims where
6 royalty payments are not received by the Secretary on the
7 date that such payments are due, the Secretary shall
8 charge interest on such underpayments at the same inter-
9 est rate as is applicable under section 6621(a)(2) of the
10 Internal Revenue Code of 1986. In the case of an
11 underpayment, interest shall be computed and charged
12 only on the amount of the deficiency and not on the total
13 amount.

14 (2) If there is any underreporting of royalty owed on
15 production from a claim for any production month by any
16 person liable for royalty payments under this section, the
17 Secretary may assess a penalty of 10 percent of the
18 amount of that underreporting.

19 (3) If there is a substantial underreporting of royalty
20 owed on production from a claim for any production
21 month by any person responsible for paying the royalty,
22 the Secretary may assess a penalty of 10 percent of the
23 amount of that underreporting.

24 (4) For the purposes of this subsection, the term
25 “substantial underreporting” means the difference be-

1 tween the royalty on the value of the production which
2 should have been reported and the royalty on the value
3 of the production which was reported, if the value which
4 should have been reported is greater than the value which
5 was reported. An underreporting constitutes a “substan-
6 tial underreporting” if such difference exceeds 10 percent
7 of the royalty on the value of production which should
8 have been reported.

9 (5) The Secretary shall not impose the assessment
10 provided in paragraph (2) or (3) of this subsection if the
11 person liable for royalty payments under this section cor-
12 rects the underreporting before the date such person re-
13 ceives notice from the Secretary that an underreporting
14 may have occurred, or before 90 days after the date of
15 the enactment of this section, whichever is later.

16 (6) The Secretary shall waive any portion of an as-
17 sessment under paragraph (2) or (3) of this subsection
18 attributable to that portion of the underreporting for
19 which the person responsible for paying the royalty dem-
20 onstrates that—

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

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

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

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

11 (7) All penalties collected under this subsection shall
12 be deposited in the Fund.

13 (g) DELEGATION.—For the purposes of this section,
14 the term “Secretary” means the Secretary of the Interior
15 acting through the Director of the Minerals Management
16 Service.

17 (h) EXPANDED ROYALTY OBLIGATIONS.—Each per-
18 son liable for royalty payments under this section shall
19 be jointly and severally liable for royalty on all locatable
20 minerals, concentrates, or products derived therefrom lost
21 or wasted from a mining claim located or converted under
22 this section when such loss or waste is due to negligence
23 on the part of any person or due to the failure to comply
24 with any rule, regulation, or order issued under this sec-
25 tion.

1 (i) EXCEPTION.—No royalty shall be payable under
2 subsection (a) with respect to minerals processed at a fa-
3 cility by the same person or entity which extracted the
4 minerals if an urban development action grant has been
5 made under section 119 of the Housing and Community
6 Development Act of 1974 with respect to any portion of
7 such facility.

8 (j) DEFINITION.—For the purposes of this section,
9 for any locatable mineral, the term “net smelter return”
10 shall have the same meaning as the term defined in section
11 613(c)(1) of the Internal Revenue Code of 1986.

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

18 **Subtitle D—Administrative and**

19 **Miscellaneous Provisions**

20 **PART 1—ADMINISTRATIVE PROVISIONS**

21 **SEC. 241. POLICY FUNCTIONS.**

22 (a) MINERALS POLICY.—Section 2 of the Mining and
23 Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended
24 by adding at the end thereof the following: “It shall also
25 be the responsibility of the Secretary of Agriculture to

1 carry out the policy provisions of paragraphs (1) and (2)
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) is amended by inserting
6 before the period the following: “, except that for National
7 Forest System lands the Secretary of Agriculture shall
8 promptly initiate actions to improve the availability and
9 analysis of mineral data in Federal land use decisionmak-
10 ing”.

11 **SEC. 242. USER FEES.**

12 The Secretary and the Secretary of Agriculture are
13 each authorized to establish and collect from persons sub-
14 ject to the requirements of this title such user fees as may
15 be necessary to reimburse the United States for the 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 **SEC. 243. PUBLIC PARTICIPATION REQUIREMENTS.**

23 (a) OPERATIONS PERMIT.—(1) Concurrent with sub-
24 mittal of an application for an operations permit under
25 section 214 or a renewal or significant modification there-

1 of, the applicant shall publish a notice in a newspaper of
2 local circulation at least once a week for 4 consecutive
3 weeks. The notice shall include: the name of the applicant,
4 the location of the proposed mineral activities, the type
5 and expected duration of the proposed mineral activities,
6 the proposed use of the land after the completion of min-
7 eral activities and a location where such plans are publicly
8 available. The applicant shall also notify in writing other
9 Federal, State and local government agencies and Indian
10 tribes that regulate mineral activities or land planning de-
11 cisions in the area subject to mineral activities or that
12 manage lands adjacent to the area subject to mineral ac-
13 tivities. The applicant shall provide proof of such notifica-
14 tion to the Secretary, or for National Forest System lands
15 the Secretary of Agriculture.

16 (2) The applicant for an operations permit shall make
17 copies of the complete permit application available for
18 public review at the office of the responsible Federal sur-
19 face management agency located nearest to the location
20 of the proposed mineral activities, and at such other public
21 locations deemed appropriate by the State or local govern-
22 ment for the county in which the proposed mineral activi-
23 ties will occur prior to final decision by the Secretary, or
24 for National Forest System lands the Secretary of Agri-
25 culture. Any person, and the authorized representative of

1 a Federal, State or local governmental agency or Indian
2 tribe, shall have the right to file written comments relating
3 to the approval or disapproval of the permit application
4 until 30 days after the last day of newspaper publication.
5 The Secretary concerned shall promptly make such com-
6 ments available to the applicant.

7 (3) Any person may file written comments during the
8 comment period specified in paragraph (2) and any person
9 who is, or may be, adversely affected by the proposed min-
10 eral activities may request a nonadjudicatory public hear-
11 ing to be held in the county in which the mineral activities
12 are proposed. The Secretary concerned shall consider all
13 written comments filed during such period. If a hearing
14 is requested by any person who is, or may be, adversely
15 affected by the proposed mineral activities, the Secretary
16 concerned shall consider such request and may conduct
17 such hearing. When a hearing is to be held, notice of such
18 hearing shall be published in a newspaper of local circula-
19 tion at least once a week for 2 weeks prior to the hearing
20 date.

21 **SEC. 244. INSPECTION AND MONITORING.**

22 (a) INSPECTIONS.—(1) The Secretary, or for Na-
23 tional Forest System lands the Secretary of Agriculture,
24 shall make inspections of mineral activities so as to ensure

1 compliance with the surface management requirements of
2 subtitle B.

3 (2) The Secretary concerned shall establish a fre-
4 quency of inspections for mineral activities conducted
5 under a permit issued under subtitle B, but in no event
6 shall such inspection frequency be less than one complete
7 inspection per calendar quarter or, two per calendar quar-
8 ter in the case of a permit for which the Secretary con-
9 cerned approves an application under section 214(g) (re-
10 lating to temporary cessation of operations). After
11 revegetation has been established in accordance with a rec-
12 lamation plan, such Secretary shall conduct annually 2
13 complete inspections. Such Secretary shall have the discre-
14 tion to modify the inspection frequency for mineral activi-
15 ties that are conducted on a seasonal basis. Inspections
16 shall continue under this subsection until final release of
17 financial assurance.

18 (3)(A) Any person who has reason to believe he or
19 she is or may be adversely affected by mineral activities
20 due to any violation of the surface management require-
21 ments may request an inspection. The Secretary, or for
22 National Forest System lands the Secretary of Agri-
23 culture, shall determine within 10 working days of receipt
24 of the request whether the request states a reason to be-
25 lieve that a violation exists. If the person alleges and pro-

1 vides reason to believe that an imminent threat to the en-
2 vironment or danger to the health or safety of the public
3 exists, the 10-day period shall be waived and the inspec-
4 tion shall be conducted immediately. When an inspection
5 is conducted under this paragraph, the Secretary con-
6 cerned shall notify the person requesting the inspection,
7 and such person shall be allowed to accompany the Sec-
8 retary concerned or the Secretary's authorized representa-
9 tive during the inspection. The Secretary shall not incur
10 any liability for allowing such person to accompany an au-
11 thorized representative. The identity of the person supply-
12 ing information to the Secretary relating to a possible vio-
13 lation or imminent danger or harm shall remain confiden-
14 tial with the Secretary if so requested by that person, un-
15 less that person elects to accompany an authorized rep-
16 resentative on the inspection.

17 (B) The Secretaries shall, by joint rule, establish pro-
18 cedures for the review of (i) any decision by an authorized
19 representative not to inspect or (ii) any refusal by such
20 representative to ensure that remedial actions are taken
21 with respect to any alleged violation. The Secretary con-
22 cerned shall furnish such persons requesting the review
23 a written statement of the reasons for the Secretary's final
24 disposition of the case.

1 (b) MONITORING.—(1) The Secretary, or for Na-
2 tional Forest System lands the Secretary of Agriculture,
3 shall require all operators to develop and maintain a mon-
4 itoring and evaluation system which shall identify compli-
5 ance with all surface management requirements.

6 (2) Monitoring shall be conducted as close as tech-
7 nically feasible to the mineral activity involved, and in all
8 cases such monitoring shall be conducted within the per-
9 mit area.

10 (3) The point of compliance referred to in paragraph
11 (1) shall be as close to the mineral activity involved as
12 is technically feasible, but in any event shall be located
13 to comply with applicable State and Federal standards.
14 In no event shall the point of compliance be outside the
15 permit area.

16 (4) The Secretary concerned may require additional
17 monitoring be conducted as necessary to assure compli-
18 ance with the reclamation and other environmental stand-
19 ards of this title.

20 (5) The operator shall file reports with the Secretary,
21 or for National Forest System lands the Secretary of Agri-
22 culture, on a frequency determined by the Secretary con-
23 cerned, on the results of the monitoring and evaluation
24 process, except that if the monitoring and evaluation show
25 a violation of the surface management requirements, it

1 shall be reported immediately to the Secretary concerned.
2 Information received pursuant to this subsection from any
3 natural person shall not be used against any such natural
4 person in any criminal case, except a prosecution for per-
5 jury or for giving a false statement. The Secretary shall
6 evaluate the reports submitted pursuant to this para-
7 graph, and based on those reports and any necessary in-
8 spection shall take enforcement action pursuant to this
9 section.

10 (6) The Secretary, or for National Forest System
11 lands the Secretary of Agriculture, shall determine what
12 information must be reported by the operator pursuant
13 to paragraph (5). A failure to report as required by the
14 Secretary concerned shall constitute a violation of this title
15 and subject the operator to enforcement action pursuant
16 to section 247.

17 **SEC. 245. CITIZENS SUITS.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b), any person having an interest which is or may be ad-
20 versely affected may commence a civil action on his or her
21 own behalf to compel compliance—

22 (1) against any person (including the Secretary
23 or the Secretary of Agriculture) alleged to have vio-
24 lated (if there is evidence the alleged violation has
25 been repeated), or to be in violation of, any of the

1 provisions of subtitle B or section 244 of this title
2 or any regulation promulgated pursuant to subtitle
3 B or section 244 of this title or any term or condi-
4 tion of any permit issued under subtitle B of this
5 title; or

6 (2) against the Secretary or the Secretary of
7 Agriculture where there is alleged a failure of such
8 Secretary to perform any act or duty under subtitle
9 B or section 244 of this title, or to promulgate any
10 regulation under subtitle B or section 244 of this
11 title, which is not within the discretion of the Sec-
12 retary concerned.

13 The United States district courts shall have jurisdiction
14 over actions brought under this section, without regard to
15 the amount in controversy or the citizenship of the parties,
16 including actions brought to apply any civil penalty under
17 this title. The district courts of the United States shall
18 have jurisdiction to compel agency action unreasonably de-
19 layed, except that an action to compel agency action
20 reviewable under section 246 may only be filed in a United
21 States District Court within the circuit in which such ac-
22 tion would be reviewable under section 246.

23 (b) EXCEPTIONS.—(1) No action may be commenced
24 under subsection (a) prior to 60 days after the plaintiff
25 has given notice in writing of such alleged violation to the

1 Secretary, or for National Forest System lands the Sec-
2 retary of Agriculture, except that any such action may be
3 brought immediately after such notification if the violation
4 complained of constitutes an imminent threat to the envi-
5 ronment or to the health or safety of the public.

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

11 (3) No action may be commenced under paragraph
12 (2) of subsection (a) against either Secretary to review any
13 rule promulgated by, or to any permit issued or denied
14 by such Secretary if such rule or permit issuance or denial
15 is judicially reviewable under section 246 or under any
16 other provision of law at any time after such promulga-
17 tion, issuance, or denial is final.

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

21 (d) INTERVENTION; NOTICE.—(1) In any action
22 under this section, the Secretary, or for National Forest
23 System lands the Secretary of Agriculture, may intervene
24 as a matter of right at any time. A judgment in an action
25 under this section to which the United States is not a

1 party shall not have any binding effect upon the United
2 States.

3 (2) Whenever an action is brought under this section
4 the plaintiff shall serve a copy of the complaint on the
5 Attorney General of the United States and on the Sec-
6 retary, or for National Forest System lands the Secretary
7 of Agriculture. No consent judgment shall be entered in
8 an action brought under this section in which the United
9 States is not a party prior to 45 days following the date
10 on which a copy of the proposed consent judgment is sub-
11 mitted to the Attorney General and the Secretary, or for
12 National Forest System lands the Secretary of Agri-
13 culture. During such 45-day period the Attorney General
14 or such Secretary may submit comments on the proposed
15 consent judgment to the court and parties or may inter-
16 vene as a matter of right.

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

1 (f) SAVINGS CLAUSE.—Nothing in this section shall
2 restrict any right which any person (or class of persons)
3 may have under chapter 7 of title 5 of the United States
4 Code, under section 246 of this title or under any other
5 statute or common law to bring an action to seek any relief
6 against the Secretary or the Secretary of Agriculture or
7 against any other person, including any action for any vio-
8 lation of this title or of any regulation or permit issued
9 under this title or for any failure to act as required by
10 law. Nothing in this section shall affect the jurisdiction
11 of any court under any provision of title 28 of the United
12 States Code, including any action for any violation of this
13 title or of any regulation or permit issued under this title
14 or for any failure to act as required by law. Nothing in
15 this title shall be construed to be a waiver of the sovereign
16 immunity of an Indian tribe except as provided for in sec-
17 tion 212(c).

18 **SEC. 246. ADMINISTRATIVE AND JUDICIAL REVIEW.**

19 (a) REVIEW BY SECRETARY.—(1)(A) Any person is-
20 sued a notice of violation or cessation order under section
21 247, or any person having an interest which is or may
22 be adversely affected by such notice or order, may apply
23 to the Secretary, or for National Forest System lands the
24 Secretary of Agriculture, for review of the notice or order
25 within 30 days of receipt thereof, or as the case may be,

1 within 30 days of such notice or order being modified, va-
2 cated or terminated.

3 (B) Any person who is subject to a penalty assessed
4 under section 218, section 219(e), or section 247 may
5 apply to the Secretary concerned for review of the assess-
6 ment within 30 days of notification of such penalty.

7 (C) Any person having an interest which is or may
8 be adversely affected by a decision made by the Secretary
9 or the Secretary of Agriculture under section 213, 214,
10 215, 216, 219, or 244(a)(3) may apply to such Secretary
11 for review of the decision within 30 days after it is made.

12 (2) The Secretary concerned shall provide an oppor-
13 tunity for a public hearing at the request of any party
14 to the proceeding as specified in paragraph (1). The filing
15 of an application for review under this subsection shall not
16 operate as a stay of any order or notice issued under sec-
17 tion 247.

18 (3) For any review proceeding under this subsection,
19 the Secretary concerned shall make findings of fact and
20 shall issue a written decision incorporating therein an
21 order vacating, affirming, modifying or terminating the
22 notice, order or decision, or with respect to an assessment,
23 the amount of penalty that is warranted. Where the appli-
24 cation for review concerns a cessation order issued under
25 section 247, the Secretary concerned shall issue the writ-

1 ten decision within 30 days of the receipt of the applica-
2 tion for review or within 30 days after the conclusion of
3 any hearing referred to in paragraph (2), whichever is
4 later, unless temporary relief has been granted by the Sec-
5 retary concerned under paragraph (4).

6 (4) Pending completion of any review proceedings
7 under this subsection, the applicant may file with the Sec-
8 retary, or for National Forest System lands the Secretary
9 of Agriculture, a written request that the Secretary grant
10 temporary relief from any order issued under section 247
11 together with a detailed statement giving reasons for such
12 relief. The Secretary concerned shall expeditiously issue
13 an order or decision granting or denying such relief. The
14 Secretary concerned may grant such relief under such con-
15 ditions as he may prescribe only if such relief shall not
16 adversely affect the health or safety of the public or cause
17 significant, imminent environmental harm to land, air or
18 water resources.

19 (5) The availability of review under this subsection
20 shall not be construed to limit the operation of rights
21 under section 245.

22 (b) JUDICIAL REVIEW.—(1) Any final action by the
23 Secretaries of the Interior and Agriculture in promulgat-
24 ing regulations to implement this title, or any other final
25 actions constituting rulemaking to implement this title,

1 shall be subject to judicial review only in the United States
2 Court of Appeals for the District of Columbia. Any action
3 subject to judicial review under this subsection shall be
4 affirmed unless the court concludes that such action is ar-
5 bitrary, capricious, or otherwise inconsistent with law. A
6 petition for review of any action subject to judicial review
7 under this subsection shall be filed within 60 days from
8 the date of such action, or after such date if the petition
9 is based solely on grounds arising after the sixtieth day.
10 Any such petition may be made by any person who com-
11 mented or otherwise participated in the rulemaking or any
12 person who may be adversely affected by the action of the
13 Secretaries.

14 (2) Final agency action under this title, including
15 such final action on those matters described under sub-
16 section (a), shall be subject to judicial review in accord-
17 ance with paragraph (4) and pursuant to section 1391 of
18 title 28 of the United States Code on or before 60 days
19 from the date of such final action. Any action subject to
20 judicial review under this subsection shall be affirmed un-
21 less the court concludes that such action is arbitrary, ca-
22 pricious, or otherwise inconsistent with law.

23 (3) The availability of judicial review established in
24 this subsection shall not be construed to limit the oper-

1 ations of rights under section 245 (relating to citizens
2 suits).

3 (4) The court shall hear any petition or complaint
4 filed under this subsection solely on the record made be-
5 fore the Secretary or Secretaries concerned. The court
6 may affirm or vacate any order or decision or may remand
7 the proceedings to the Secretary or Secretaries for such
8 further action as it may direct.

9 (5) The commencement of a proceeding under this
10 section shall not, unless specifically ordered by the court,
11 operate as a stay of the action, order or decision of the
12 Secretary or Secretaries concerned.

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

1 stantial contribution to a full and fair determination of
2 the issues.

3 **SEC. 247. ENFORCEMENT.**

4 (a) ORDERS.—(1) If the Secretary, or for National
5 Forest System lands the Secretary of Agriculture, or an
6 authorized representative of such Secretary, determines
7 that any person is in violation of any surface management
8 or monitoring requirement, such Secretary or authorized
9 representative shall issue to such person a notice of viola-
10 tion describing the violation and the corrective measures
11 to be taken. The Secretary concerned, or the authorized
12 representative of such Secretary, shall provide such person
13 with a period of time not to exceed 30 days to abate the
14 violation. Such period of time may be extended by the Sec-
15 retary concerned upon a showing of good cause by such
16 person. If, upon the expiration of time provided for such
17 abatement, the Secretary concerned, or the authorized
18 representative of such Secretary, finds that the violation
19 has not been abated he shall immediately order a cessation
20 of all mineral activities or the portion thereof relevant to
21 the violation.

22 (2) If the Secretary concerned, or the authorized rep-
23 resentative of the Secretary concerned, determines that
24 any condition or practice exists, or that any person is in
25 violation of any surface management or monitoring re-

1 quirement, and such condition, practice or violation is
2 causing, or can reasonably be expected to cause—

3 (A) an imminent danger to the health or safety
4 of the public; or

5 (B) significant, imminent environmental harm
6 to land, air, water, fish or wildlife resources;

7 such Secretary or authorized representative shall imme-
8 diately order a cessation of mineral activities or the por-
9 tion thereof relevant to the condition, practice or violation.

10 (3)(A) A cessation order pursuant to paragraphs (1)
11 or (2) shall remain in effect until such Secretary, or au-
12 thorized representative, determines that the condition,
13 practice or violation has been abated, or until modified,
14 vacated or terminated by the Secretary or authorized rep-
15 resentative. In any such order, the Secretary or authorized
16 representative shall determine the steps necessary to abate
17 the violation in the most expeditious manner possible and
18 shall include the necessary measures in the order. The
19 Secretary concerned shall require appropriate financial as-
20 surances to ensure that the abatement obligations are met.

21 (B) Any notice or order issued pursuant to para-
22 graphs (1) or (2) may be modified, vacated or terminated
23 by the Secretary concerned or an authorized representa-
24 tive of such Secretary. Any person to whom any such no-

1 tice or order is issued shall be entitled to a hearing on
2 the record.

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

16 (5) If a claimholder or operator (or any person who
17 controls the claimholder or operator) fails to abate a viola-
18 tion or defaults on the terms of the permit, the Secretary,
19 or for National Forest System lands the Secretary of Agri-
20 culture, shall forfeit the financial assurance for the plan
21 as necessary to ensure abatement and reclamation under
22 this title. The Secretary concerned may prescribe condi-
23 tions under which a surety may perform reclamation in
24 accordance with the approved plan in lieu of forfeiture.

1 (6) The Secretary, or for National Forest System
2 lands the Secretary of Agriculture, shall not cause forfeit-
3 ure of the financial assurance while administrative or judi-
4 cial review is pending.

5 (7) In the event of forfeiture, the claim holder, opera-
6 tor, or any affiliate thereof, as appropriate as determined
7 by the Secretary by rule, shall be jointly and severally lia-
8 ble for any remaining reclamation obligations under this
9 title.

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

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

21 (2) interferes with, hinders or delays the Sec-
22 retary concerned in carrying out an inspection under
23 section 244.

24 Such court shall have jurisdiction to provide such relief
25 as may be appropriate. Any relief granted by the court

1 to enforce an order under paragraph (1) shall continue
2 in effect until the completion or final termination of all
3 proceedings for review of such order unless the district
4 court granting such relief sets it aside.

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

9 (d) PENALTIES.—(1) Any person who fails to comply
10 with any surface management requirement shall be liable
11 for a penalty of not more than \$25,000 per violation. Each
12 day of violation may be deemed a separate violation for
13 purposes of penalty assessments.

14 (2) A person who fails to correct a violation for which
15 a cessation order has been issued under subsection (a)
16 within the period permitted for its correction shall be as-
17 sessed a civil penalty of not less than \$1,000 per violation
18 for each day during which such failure continues, but in
19 no event shall such assessment exceed a 30-day period.

20 (3) Whenever a corporation is in violation of a surface
21 management requirement or fails or refuses to comply
22 with an order issued under subsection (a), any director,
23 officer or agent of such corporation who knowingly author-
24 ized, ordered, or carried out such violation, failure or re-

1 fusal shall be subject to the same penalties as may be im-
2 posed upon the person referred to in paragraph (1).

3 (e) SUSPENSIONS OR REVOCATIONS.—The Secretary,
4 or for National Forest System lands the Secretary of Agri-
5 culture, may suspend or revoke a permit issued under sub-
6 title B, in whole or in part, if the operator or person con-
7 ducting mineral activities—

8 (1) knowingly made or knowingly makes any
9 false, inaccurate, or misleading material statement
10 in any mining claim, notice of location, application,
11 record, report, plan, or other document filed or re-
12 quired to be maintained under this title;

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

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

17 (4) refuses to permit an audit pursuant to this
18 title;

19 (5) fails to maintain an adequate financial as-
20 surance under section 216;

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

23 (7) with regard to plans conditionally approved
24 under section 215(c)(2), fails to abate a violation to
25 the satisfaction of the Secretary concerned, or if the

1 validity of the violation is upheld on the appeal
2 which formed the basis for the conditional approval.

3 (f) FALSE STATEMENTS; TAMPERING.—Any person
4 who knowingly—

5 (1) makes any false material statement, rep-
6 resentation, or certification in, or omits or conceals
7 material information from, or unlawfully alters, any
8 mining claim, notice of location, application, record,
9 report, plan, or other documents filed or required to
10 be maintained under this title; or

11 (2) falsifies, tampers with, renders inaccurate,
12 or fails to install any monitoring device or method
13 be required to be maintained under this title,

14 shall upon conviction, be punished by a fine of not more
15 than \$10,000, or by imprisonment for not more than 2
16 years, or by both. If a conviction of a person is for a viola-
17 tion committed after a first conviction of such person
18 under this paragraph, punishment shall be by a fine of
19 not more than \$20,000 per day of violation, or by impris-
20 onment of not more than 4 years, or both. Each day of
21 continuing violation may be deemed a separate violation
22 for purposes of penalty assessments.

23 (g) KNOWING VIOLATIONS.—Any person who know-
24 ingly—

1 (1) engages in mineral activities without a permit required under subtitle B, or

2
3 (2) violates any other surface management requirement of this title or any provision of a permit issued under this title (including any exploration or operations plan on which such permit is based), or condition or limitation thereof,

4
5
6
7
8 shall upon conviction be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

9
10 If a conviction of a person is for a violation committed after the first conviction of such person under this paragraph, punishment shall be a fine of not less than \$10,000 per day of violation, or by imprisonment of not more than 6 years, or both.

11
12
13 (h) FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.—(1) Any person who fails to comply with the requirements of section 236 or any regulation or order issued to implement section 236 shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) to the same extent as if the claim located or converted under this title were a lease under that Act.

14
15
16 (2) Any person who knowingly and willfully commits an act for which a civil penalty is provided in paragraph

1 (1) shall, upon conviction, be punished by a fine of not
2 more than \$50,000, or by imprisonment for not more than
3 2 years, or both.

4 (i) DEFINITION. For purposes of this section, the
5 term “person” includes a person as defined in section 3(a)
6 and any officer, agent, or employee of any such person.

7 **SEC. 248. REGULATIONS; EFFECTIVE DATES.**

8 (a) EFFECTIVE DATE.—The provisions of this title
9 shall take effect on the date of enactment of this Act, ex-
10 cept as otherwise provided in this title.

11 (b) REGULATIONS.—The Secretary and the Secretary
12 of Agriculture may issue such regulations as may be nec-
13 essary under this title. The regulations implementing sub-
14 title B and the provisions of subtitle D which affect the
15 United States Forest Service shall be joint regulations is-
16 sued by both Secretaries.

17 (c) NOTICE.—Within 180 days after the date of en-
18 actment of this Act, the Secretary shall give notice to hold-
19 ers of mining claims and mill sites maintained under the
20 general mining laws as to the requirements of sections
21 206, 207, and 218.

1 **PART 2—MISCELLANEOUS PROVISIONS**

2 **SEC. 249. TRANSITIONAL RULES; SURFACE MANAGEMENT**
3 **REQUIREMENTS.**

4 (a) **NEW CLAIMS.**—Notwithstanding any other provi-
5 sion of law, any mining claim for a locatable mineral on
6 lands subject to this title located after the date of enact-
7 ment of this Act shall be subject to the requirements of
8 subtitle B.

9 (b) **PREEXISTING CLAIMS.**—(1) Notwithstanding any
10 other provision of law, any unpatented mining claim or
11 mill site located under the general mining laws before the
12 date of enactment of this Act for which a plan of operation
13 has not been approved or a notice filed prior to the date
14 of enactment shall upon the effective date of this title, be
15 subject to the requirements of subtitle B, except as pro-
16 vided in paragraphs (2) and (3).

17 (2)(A) If a plan of operations had been approved for
18 mineral activities on any claim or site referred to in para-
19 graph (1) prior to the date of enactment this Act, for a
20 period of 5 years after the effective date of this title min-
21 eral activities at such claim or site shall be subject to such
22 plan of operations (or a modification or amendment there-
23 to prepared in accordance with the provisions of law appli-
24 cable prior to the enactment of this Act). During such 5-
25 year period, modifications of, or amendments to, any such
26 plan may be made in accordance with the provisions of

1 law applicable prior to the enactment of this Act if such
2 modifications or amendments are deemed minor by the
3 Secretary concerned. After such 5-year period the require-
4 ments of subtitle B shall apply, subject to the limitations
5 of section 219. In order to meet the requirements of sub-
6 title B, the person conducting mineral activities under
7 such plan of operations (or modified or amended plan)
8 shall apply for a modification under section 213(f) and
9 214(f) no later than 3 years after the date of enactment
10 of this Act. For purposes of this paragraph, any modifica-
11 tion or amendment which extends the area covered by the
12 plan (except for incidental boundary revisions) or which
13 significantly increases the risk of adverse effects on the
14 environment shall not be subject to this paragraph and
15 shall be subject to other provisions of this title.

16 (B) During the 5-year period referred to in subpara-
17 graph (A) the provisions of section 244 (relating to inspec-
18 tion and monitoring) and section 247 (relating to enforce-
19 ment) shall apply on the basis of the surface management
20 requirements applicable to such plans of operations prior
21 to the effective date of this title.

22 (C) Where an application for modification or amend-
23 ment of a plan of operations referred to in subparagraph
24 (A) has been timely submitted and an approved plan ex-
25 pires prior to Secretarial action on the application, mineral

1 activities and reclamation may continue in accordance
2 with the terms of the expired plan until the Secretary
3 makes an administrative decision on the application.

4 (3)(A) If a substantially complete application for ap-
5 proval of a plan of operations or for a modification of,
6 or amendment to, a plan of operations had been submitted
7 by January 5, 1995 and either a scoping document or an
8 Environmental Assessment prepared for purposes of com-
9 pliance with the National Environmental Policy Act of
10 1969 had been published with respect to such plan, modi-
11 fication, or amendment before the date of the enactment
12 of this Act but the submitted plan of operations or modi-
13 fication or amendment had not been approved for mineral
14 activities on any claim or site referred to in paragraph
15 (1) prior to such date of enactment, for a period of 5 years
16 after the effective date of this title mineral activities at
17 such claim or site shall be subject to the provisions of law
18 applicable prior to the enactment of this Act. During such
19 5-year period, subsequent modifications of, or amend-
20 ments to, any such plan may be made in accordance with
21 the provisions of law applicable prior to the enactment of
22 this Act if such subsequent modifications or amendments
23 are deemed minor by the Secretary concerned. After such
24 5-year period, the requirements of subtitle B shall apply,
25 subject to the limitations of section 219. For purposes of

1 this paragraph, any subsequent modification or amend-
2 ment which extends the area covered by the plan (except
3 for incidental boundary revisions) or which significantly
4 increases the risk of adverse effects on the environment
5 shall not be subject to this paragraph and shall be subject
6 to other provisions of this title.

7 (B) In order to meet the requirements of subtitle B,
8 the person conducting mineral activities under a plan of
9 operations (or modified or amended plan referred to in
10 subparagraph (A)) shall apply for a modification under
11 sections 213(f) and 214(f) no later than 3 years after the
12 date of enactment of this Act. During such 5-year period
13 the provisions of section 244 (relating to inspection and
14 monitoring) and section 247 (relating to enforcement)
15 shall apply on the basis of the surface management re-
16 quirements applicable to such plans of operations prior to
17 the effective date of this Act.

18 (C) Where an application for modification or amend-
19 ment of a plan of operations referred to in subparagraph
20 (A) has been timely submitted and an approved plan ex-
21 pires prior to Secretarial action on the application, mineral
22 activities and reclamation may continue in accordance
23 with the terms of the expired plan until the Secretary
24 makes an administrative decision on the application.

1 (4) If a notice or notice of intent had been filed with
2 the authorized officer in the applicable office of the Bu-
3 reau of Land Management or the United States Forest
4 Service (as provided for in the regulations of the Secretary
5 of the Interior or the Secretary of Agriculture, respec-
6 tively, in effect prior to the date of enactment of this Act)
7 prior to the date of enactment this Act, mineral activities
8 may continue under such notice or notice of intent for a
9 period of 2 years after the effective date of this Act, after
10 which time the requirements of subtitle B shall apply, sub-
11 ject to the limitations of section 219(d)(2). In order to
12 meet the requirements of subtitle B, the person conduct-
13 ing mineral activities under such notice or notice of intent
14 must apply for a permit under section 213 or 214 no later
15 than 18 months after the effective date of this title, unless
16 such mineral activities are conducted pursuant to section
17 212(b). During such 2-year period the provisions of sec-
18 tion 244 (relating to inspection and monitoring) and 247
19 (relating to enforcement) shall apply on the basis of the
20 surface management requirements applicable to such no-
21 tices prior to the effective date of this title.

22 **SEC. 250. CLAIMS SUBJECT TO SPECIAL RULES.**

23 (a) CERTAIN CLAIMS NOT CONVERTED.—Notwith-
24 standing any other provision of law, except as provided
25 under subsection (c), an unpatented mining claim referred

1 to in section 37 of the Mineral Leasing Act (30 U.S.C.
2 193) shall not be converted under section 206 of this title
3 until the Secretary determines that the claim was valid
4 on the date of enactment of the Mineral Leasing Act and
5 has been maintained in compliance with the general min-
6 ing laws.

7 (b) CONTEST PROCEEDINGS.—As soon as practicable
8 after the date of enactment of this Act, the Secretary shall
9 initiate contest proceedings challenging the validity of all
10 unpatented claims referred to in subsection (a), including
11 those claims for which a patent application has not been
12 filed. If a claim is determined to be invalid, the Secretary
13 shall promptly declare the claim to be null and void. If,
14 as a result of such proceeding, a claim is determined valid,
15 the claim shall be converted and thereby become subject
16 to this title’s provisions on the date of the completion of
17 the contest proceeding.

18 (c) OIL SHALE CLAIMS.—(1) The provisions of sec-
19 tion 251 shall apply to oil shale claims referred to in sec-
20 tion 2511(e)(2) of the Energy Policy Act of 1992 (Public
21 Law 102–486).

22 (2) Section 2511(f) of the Energy Policy Act of 1992
23 (Public Law 102–486) is amended as follows:

24 (A) Strike “as prescribed by the Secretary”.

1 (B) Insert the following before the period: “in
2 the same manner as if such claims were subject to
3 subtitle B of the Mineral Exploration and Develop-
4 ment Act of 1996”.

5 **SEC. 251. PURCHASING POWER ADJUSTMENT.**

6 The Secretary shall adjust all location fees, claim
7 maintenance rates, penalty amounts, and other dollar
8 amounts established in this title for changes in the pur-
9 chasing power of the dollar every 10 years following the
10 date of enactment of this Act, employing the Consumer
11 Price Index for all-urban consumers published by the De-
12 partment of Labor as the basis for adjustment, and round-
13 ing according to the adjustment process of conditions of
14 the Federal Civil Penalties Inflation Adjustment Act of
15 1990 (104 Stat. 890).

16 **SEC. 252. SAVINGS CLAUSE.**

17 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-
18 ing in this title shall be construed as repealing or modify-
19 ing any Federal law, regulation, order or land use plan,
20 in effect prior to the date of enactment of this Act that
21 prohibits or restricts the application of the general mining
22 laws, including laws that provide for special management
23 criteria for operations under the general mining laws as
24 in effect prior to the date of enactment of this Act, to
25 the extent such laws provide environmental protection

1 greater than required under this title, and any such prior
2 law shall remain in force and effect with respect to claims
3 located (or proposed to be located) or converted under this
4 title. Nothing in this title shall be construed as applying
5 to or limiting mineral investigations, studies, or other min-
6 eral activities conducted by any Federal or State agency
7 acting in its governmental capacity pursuant to other au-
8 thority. Nothing in this title shall affect or limit any as-
9 sessment, investigation, evaluation or listing pursuant to
10 the Comprehensive Environmental Response, Compensa-
11 tion and Liability Act of 1980, or the Solid Waste Dis-
12 posal Act.

13 (b) EFFECT ON OTHER FEDERAL LAWS.—The provi-
14 sions of this title shall supersede the general mining laws,
15 but, except for the general mining laws, nothing in this
16 title shall be construed as superseding, modifying, amend-
17 ing or repealing any provision of Federal law not expressly
18 superseded, modified, amended or repealed by this title.
19 Nothing in this title shall be construed as altering, affect-
20 ing, amending, modifying, or changing, directly or indi-
21 rectly, any law which refers to and provides authorities
22 or responsibilities for, or is administered by, the Environ-
23 mental Protection Agency or the Administrator of the En-
24 vironmental Protection Agency, including the Federal
25 Water Pollution Control Act, title XIV of the Public

1 Health Service Act (the Safe Drinking Water Act), the
2 Clean Air Act, the Pollution Prevention Act of 1990, the
3 Toxic Substances Control Act, the Federal Insecticide,
4 Fungicide, and Rodenticide Act, the Federal Food, Drug,
5 and Cosmetic Act, the Motor Vehicle Information and
6 Cost Savings Act, the Federal Hazardous Substances Act,
7 the Atomic Energy Act, the Noise Control Act of 1972,
8 the Solid Waste Disposal Act, the Comprehensive Environ-
9 mental Response, Compensation, and Liability Act of
10 1980, the Superfund Amendments and Reauthorization
11 Act of 1986, the Ocean Dumping Act, the Environmental
12 Research, Development, and Demonstration Authorization
13 Act, the Pollution Prosecution Act of 1990, and the Fed-
14 eral Facilities Compliance Act of 1992, or any statute con-
15 taining amendment to any of such Acts. Nothing in this
16 title shall be construed as modifying or affecting any pro-
17 vision of the Native American Graves Protection and Re-
18 patriation Act (Public Law 101–601) or any provision of
19 the American Indian Religious Freedom Act (42 U.S.C.
20 1996).

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

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

4 **SEC. 253. AVAILABILITY OF PUBLIC RECORDS.**

5 Copies of records, reports, inspection materials or in-
6 formation obtained by the Secretary or the Secretary of
7 Agriculture under this title shall be made immediately
8 available to the public, consistent with section 552 of title
9 5 of the United States Code, in central and sufficient loca-
10 tions in the county, multi county, and State area of min-
11 eral activity or reclamation so that such items are conven-
12 iently available to residents in the area proposed or ap-
13 proved for mineral activities.

14 **SEC. 254. MISCELLANEOUS POWERS.**

15 (a) IN GENERAL.—In carrying out his or her duties
16 under this title, the Secretary, or for National Forest Sys-
17 tem lands the Secretary of Agriculture, may conduct any
18 investigation, inspection, or other inquiry necessary and
19 appropriate and may conduct, after notice, any hearing
20 or audit, necessary and appropriate to carrying out his
21 duties.

22 (b) ANCILLARY POWERS.—In connection with any
23 hearing, inquiry, investigation, or audit under this title,
24 the Secretary, or for National Forest System lands the

1 Secretary of Agriculture, is authorized to take any of the
2 following actions:

3 (1) Require, by special or general order, any
4 person to submit in writing such affidavits and an-
5 swers to questions as the Secretary concerned may
6 reasonably prescribe, which submission shall be
7 made within such reasonable period and under oath
8 or otherwise, as may be necessary.

9 (2) Administer oaths.

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

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

20 (5) Pay witnesses the same fees and mileage as
21 are paid in like circumstances in the courts of the
22 United States.

23 (c) ENFORCEMENT.—In cases of refusal to obey a
24 subpoena served upon any person under this section, the
25 district court of the United States for any district in which

1 such person is found, resides, or transacts business, upon
2 application by the Attorney General at the request of the
3 Secretary concerned and after notice to such person, shall
4 have jurisdiction to issue an order requiring such person
5 to appear and produce documents before the Secretary
6 concerned. Any failure to obey such order of the court may
7 be punished by such court as contempt thereof and subject
8 to a penalty of up to \$10,000 a day.

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

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

17 (2) may at reasonable times, and without delay,
18 have access to any copy any records, inspect any
19 monitoring equipment or method of operation re-
20 quired under this title;

21 (3) may engage in any work and to do all
22 things necessary or expedient to implement and ad-
23 minister the provisions of this title;

24 (4) may, on any mining claim located or con-
25 verted under this title, and without advance notice,

1 stop and inspect any motorized form of transpor-
2 tation that he has probable cause to believe is carry-
3 ing locatable minerals, concentrates, or products de-
4 rived therefrom from a claim site for the purpose of
5 determining whether the operator of such vehicle has
6 documentation related to such locatable minerals,
7 concentrates, or products derived therefrom as re-
8 quired by law, if such documentation is required
9 under this title; and

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

22 **SEC. 255. LIMITATION ON PATENT ISSUANCE.**

23 (a) MINING CLAIMS.—After January 4, 1995, no pat-
24 ent shall be issued by the United States for any mining
25 claim located under the general mining laws or under this

1 title unless the Secretary determines that, for the claim
2 concerned—

3 (1) a patent application was filed with the Sec-
4 retary on or before January 4, 1995; and

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

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

19 (b) MILL SITES.—After January 4, 1995, no patent
20 shall be issued by the United States for any mill site claim
21 located under the general mining laws unless the Secretary
22 determines that for the mill site concerned—

23 (1) a patent application for such land was filed
24 with the Secretary on or before January 4, 1995;
25 and

1 (2) all requirements applicable to such patent
2 application were fully complied with by that date.

3 If the Secretary makes the determinations referred to in
4 paragraphs (1) and (2) for any mill site claim, the holder
5 of the claim shall be entitled to the issuance of a patent
6 in the same manner and degree to which such claim holder
7 would have been entitled to prior to the enactment of this
8 Act, unless and until such determinations are withdrawn
9 or invalidated by the Secretary or by a court of the United
10 States.

11 **SEC. 256. MULTIPLE MINERAL DEVELOPMENT AND SUR-**
12 **FACE RESOURCES.**

13 The provisions of sections 4 and 6 of the Act of Au-
14 gust 13, 1954 (30 U.S.C. 524 and 526), commonly known
15 as the Multiple Minerals Development Act, and the provi-
16 sions of section 4 of the Act of July 23, 1955 (30 U.S.C.
17 612), shall apply to all mining claims located or converted
18 under this title.

19 **SEC. 257. MINERAL MATERIALS.**

20 (a) DETERMINATIONS.—Section 3 of the Act of July
21 23, 1955 (30 U.S.C. 611), is amended as follows:

22 (1) Insert “(a)” before the first sentence.

23 (2) Insert “mineral materials, including but not
24 limited to” after “varieties of” in the first sentence.

1 (3) Strike “or cinders” and insert in lieu there-
2 of “cinders, and clay”.

3 (4) Add the following new subsection at the end
4 thereof:

5 “(b)(1) Subject to valid existing rights, after the date
6 of enactment of the Mineral Exploration and Development
7 Act of 1996, notwithstanding the reference to common va-
8 rieties in subsection (a) and to the exception to such term
9 relating to a deposit of materials with some property giv-
10 ing it distinct and special value, all deposits of mineral
11 materials referred to in such subsection, including the
12 block pumice referred to in such subsection, shall be sub-
13 ject to disposal only under the terms and conditions of
14 the Materials Act of 1947.

15 “(2) For purposes of paragraph (1), the term ‘valid
16 existing rights’ means that a mining claim located for any
17 such mineral material had some property giving it the dis-
18 tinct and special value referred to in subsection (a), or
19 as the case may be, met the definition of block pumice
20 referred to in such subsection, was properly located and
21 maintained under the general mining laws prior to the
22 date of enactment of the Mineral Exploration and Devel-
23 opment Act of 1995, and was supported by a discovery
24 of a valuable mineral deposit within the meaning of the
25 general mining laws as in effect immediately prior to the

1 date of enactment of the Mineral Exploration and Devel-
2 opment Act of 1995 and that such claim continues to be
3 valid under this Act.”.

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

7 (1) In subsection (b) insert “and mineral mate-
8 rial” after “vegetative”.

9 (2) In subsection (c) insert “and mineral mate-
10 rial” after “vegetative”.

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

16 (d) SHORT TITLES.—

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

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

22 (2) MINERAL MATERIALS.—The Act of July 31,
23 1947, entitled “An Act to provide for the disposal of
24 materials on the public lands of the United States”

1 (30 U.S.C. 601 and following) is amended by insert-
2 ing after section 4 the following new section:

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

5 (e) REPEALS.—(1) Subject to valid existing rights,
6 the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161)
7 commonly known as the Building Stone Act is hereby re-
8 pealed.

9 (2) Subject to valid existing rights, the Act of Janu-
10 ary 31, 1901 (30 U.S.C. 162) commonly known as the
11 Saline Placer Act is hereby repealed.

12 **SEC. 258. APPLICATION OF ACT TO BENEFICIATION AND**
13 **PROCESSING OF NONFEDERAL MINERALS ON**
14 **FEDERAL LANDS.**

15 The provisions of this title (including the surface
16 management requirements of subtitle B) shall apply in the
17 same manner and to the same extent to Federal lands
18 used for beneficiation or processing activities for any min-
19 eral without regard to whether or not the legal and bene-
20 ficial title to the mineral is held by the United States. This
21 section applies only to minerals which are locatable min-
22 erals or minerals which would be locatable minerals if the
23 legal and beneficial title to such minerals were held by the
24 United States.

1 **SEC. 259. COMPLIANCE WITH BUY AMERICAN ACT.**

2 No funds appropriated pursuant to this title may be
3 expended by an entity unless the entity agrees that in ex-
4 pending the funds the entity will comply with section 2
5 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-
6 10c), popularly known as the “Buy American Act”.

7 **SEC. 260. SENSE OF CONGRESS.**

8 In the case of any equipment or products purchased
9 with funding provided under this title, it is the sense of
10 the Congress that such funding should be used to pur-
11 chase only American-made equipment and products.

12 **SEC. 261. PROHIBITION OF CONTRACTS.**

13 If it has been finally determined by a court of Federal
14 agency that any person intentionally affixed a label bear-
15 ing a “Made in America” inscription, or any inscription
16 with the same meaning, to any product sold in or shipped
17 to the United States that is not made in the United
18 States, such person shall be ineligible to receive any con-
19 tract or subcontract made with funds provided pursuant
20 to this title, pursuant to the debarment, suspension, and
21 ineligibility procedures described in sections 9.400 through
22 9.409 of title 48 of the Code of Federal Regulations.

23 **SEC. 262. SEVERABILITY.**

24 If any provision of this title or the applicability there-
25 of to any person or circumstances is held invalid, the re-
26 mainder of this title and the application of such provision

1 to other persons or circumstances shall not be affected
2 thereby.

3 **SEC. 263. AWARD OF COMPENSATION FOR TAKINGS FROM**
4 **FUND.**

5 To the extent a court of competent jurisdiction, after
6 adjudication, finds that Federal action undertaken pursu-
7 ant to this title effects a taking under the Fifth Amend-
8 ment of the United States Constitution and enters a final
9 judgment against the United States, the court shall award
10 just compensation to the plaintiff, from the fund estab-
11 lished under subtitle C, subject to appropriation, together
12 with appropriate reasonable fees and expenses to the ex-
13 tent provided by section 304 of the Uniform Relocation
14 Assistance and Real Property Acquisition Policies Act of
15 1970 (42 U.S.C. 4654(c)). In any case in which the Attor-
16 ney General effects a settlement of any proceeding brought
17 under section 1346(a)(2) or 1491 of title 28 of the United
18 States Code alleging that any Federal action undertaken
19 pursuant to this title effects a taking under the Fifth
20 Amendment of the United States Constitution, the Attor-
21 ney General shall use amounts available in the Fund sub-
22 ject to appropriations to pay any award necessary pursu-
23 ant to such settlement.

1 **SEC. 264. REPORT TO CONGRESS ON MINING CLAIMS IN**
2 **THE UNITED STATES HELD BY FOREIGN**
3 **FIRMS.**

4 (a) REPORT.—Not later than one year after the date
5 of enactment of this Act and annually thereafter, the Sec-
6 retary of the Interior shall submit a report to the Congress
7 describing the percentage of each mining claim held by
8 a foreign firm.

9 (b) FOREIGN FIRM.—(1) For the purposes of this
10 section, the term “foreign firm” means any firm that is
11 not a domestic firm.

12 (2) For the purposes of paragraph (1), the term “do-
13 mestic firm” means a business entity—

14 (A) that is incorporated or organized in the
15 United States;

16 (B) that conducts business operations in the
17 United States; and

18 (C) the assets of which at least 50 percent are
19 held by United States citizens, permanent resident
20 aliens, or other domestic firms.

○