

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 506

To amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 7 (legislative day, MARCH 6), 1995

Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. DOMENICI, Mr. BURNS, Mr. THOMAS, Mr. HATCH, Mr. BENNETT, Mr. STEVENS, Mr. KEMPTHORNE, Mr. KYL, and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, 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,*

1 **SECTION 101. SHORT TITLE.**

2 This Act may be cited as “The Mining Law Reform  
3 Act of 1995”.

4 **SEC. 102. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds and declares that—

6 (1) a secure and reliable supply of locatable  
7 minerals is essential to the industrial base of the  
8 United States, national security, and balance of  
9 trade;

10 (2) many of the deposits of locatable minerals  
11 that may be commercially developed are on Federal  
12 lands as that term is defined in this Act, and are  
13 difficult and expensive to discover, mine, extract and  
14 process;

15 (3) the national need for locatable minerals will  
16 continue to expand, and without a strong mining in-  
17 dustry the demand for the minerals will exceed do-  
18 mestic sources of supply;

19 (4) mining of locatable minerals is an extremely  
20 high-risk, capital-intensive endeavor, which, to at-  
21 tract necessary investment, requires certainty and  
22 predictability in access to Federal lands in establish-  
23 ment of mining titles, and in the rights of owners of  
24 mining claims or sites to develop minerals;

25 (5) it is in the national interest to foster and  
26 encourage private enterprise in the development of a

1 domestic minerals industry to maintain and create  
2 high-paying jobs and the various Federal, State and  
3 local taxes paid by the mining industry in the Unit-  
4 ed States;

5 (6) the diversity in terrain, climate, biological,  
6 chemical, and other physical conditions, and vari-  
7 ation among the locatable minerals mined and the  
8 methods of mining and processing, require that rec-  
9 lamation standards be tailored to local and regional  
10 conditions;

11 (7) there are extensive Federal and State envi-  
12 ronmental standards that apply to mining operations  
13 on Federal lands, including State programs for the  
14 protection of ground water quality;

15 (8) every State containing Federal lands has  
16 enacted laws and regulations governing the reclama-  
17 tion of mined lands and, subject to the Supremacy  
18 Clause of the United States Constitution, these laws  
19 and regulations, including financial assurance re-  
20 quirements, apply to mineral activities on Federal  
21 lands;

22 (9) changes in the general mining laws of the  
23 United States to provide more direct economic re-  
24 turn to the United States and greater protection of  
25 public resources are desirable, so long as the

1 changes do not act as a disincentive to development  
2 of minerals, adversely affect employment in the min-  
3 ing industry or in industries that provide goods and  
4 services required for mining activities, interfere with  
5 a secure and reliable domestic supply of minerals, or  
6 adversely affect the balance of trade of the United  
7 States; and

8 (10) mining claims, mill sites and tunnel sites  
9 located under the general mining laws are property  
10 interests, and any law or regulation that impairs ex-  
11 isting property rights may expose the Federal Gov-  
12 ernment to takings claims under the fifth amend-  
13 ment to the United States Constitution.

14 (b) PURPOSE.—It is the purpose of this Act to—

15 (1) promote exploration for and the develop-  
16 ment of a secure and reliable domestic source of  
17 locatable minerals;

18 (2) provide for increased Federal revenue from  
19 the location and production of locatable minerals  
20 from Federal lands through fees, patent payments  
21 and royalties;

22 (3) ensure that mineral activities on Federal  
23 lands are conducted in compliance with all applicable  
24 Federal and State environmental regulations and

1 standards, including standards governing mined land  
2 reclamation;

3 (4) ensure that all Federal lands affected by  
4 mineral activities under the general mining laws are  
5 reclaimed as required by applicable laws;

6 (5) establish a program to reclaim abandoned  
7 locatable mine sites on Federal lands; and

8 (6) recognize that unpatented mining claims,  
9 mill sites and tunnel sites are property rights in the  
10 fullest sense and avoid, to the greatest extent pos-  
11 sible, claims of takings of existing property rights  
12 under the general mining laws that could require  
13 compensation under the fifth amendment to the  
14 United States Constitution.

15 **SEC. 103. DEFINITIONS.**

16 When used in this Act—

17 (1) “Assessment year” means the annual period  
18 commencing at 12 o’clock noon on the first day of  
19 September and ending at 12 o’clock noon on the  
20 first day of September of the following year.

21 (2) “Federal lands” means, except as provided  
22 otherwise in title III, lands and interests in lands  
23 owned by the United States that are open to mineral  
24 location, or that were open to mineral location when

1 a mining claim or site was located and which have  
2 not been patented under the general mining laws.

3 (3) “General mining laws” means those Acts  
4 which generally comprise chapters 2, 11, 12, 12A,  
5 15, and 16, and sections 161 and 162, of title 30  
6 of the United States Code, all Acts heretofore en-  
7 acted which are amendatory of or supplementary to  
8 any of the foregoing Acts, and the judicial and ad-  
9 ministrative decisions interpreting such Acts.

10 (4) “Locatable minerals” means those minerals  
11 owned by the United States and subject to location  
12 and disposition under the general mining laws on or  
13 after the effective date of this Act, but not including  
14 any mineral held in trust by the United States for  
15 any Indian or Indian tribe, as defined in section 2  
16 of the Indian Mineral Development Act of 1982 (25  
17 U.S.C. 2101), or any mineral owned by any Indian  
18 or Indian tribe, as defined in that section, that is  
19 subject to a restriction against alienation imposed by  
20 the United States, or any mineral owned by any in-  
21 corporated Native group, village corporation, or re-  
22 gional corporation and acquired by the group or cor-  
23 poration under the provisions of the Alaska Native  
24 Claims Settlement Act (43 U.S.C. 1601 et seq.).

1           (5) “Mineral activities” means any activity on  
2 Federal lands related to, or incidental to, exploration  
3 for or development, mining, production, ben-  
4 efitiation, or processing of any locatable mineral, or  
5 reclamation of the impacts of such activities.

6           (6) “Mining claim or site”, except where pro-  
7 vided otherwise, means a lode mining claim, placer  
8 mining claim, mill site or tunnel site.

9           (7) “Operator” means any person conducting  
10 mineral activities subject to this Act.

11           (8) “Person” means an individual, Indian tribe,  
12 partnership, association, society, joint venture, joint  
13 stock company, firm, company, limited liability com-  
14 pany, corporation, cooperative or other organization,  
15 and any instrumentality of State or local govern-  
16 ment, including any publicly owned utility or publicly  
17 owned corporation of State or local government.

18           (9) “Secretary” means (i) in titles II and V, the  
19 Secretary of the Interior acting through the Bureau  
20 of Land Management, (ii) in title IV, the Secretary  
21 of the Interior acting through the Bureau of Land  
22 Management or the Minerals Management Service,  
23 or both, and (iii) elsewhere in this Act, the Secretary  
24 of Agriculture, acting through the Forest Service,  
25 with respect to lands under the jurisdiction of the

1 Secretary of Agriculture, and the Secretary of the  
2 Interior, acting through the Bureau of Land Man-  
3 agement, with respect to all other lands subject to  
4 the requirements of this Act.

5 **TITLE II—DISPOSITION OF LOCATABLE**  
6 **MINERAL DEPOSITS**

7 **SEC. 201. CLAIM MAINTENANCE REQUIREMENTS.**

8 (a) MAINTENANCE FEE.—After the date of enact-  
9 ment of this Act, the owner of each unpatented mining  
10 claim or site located pursuant to the general mining laws,  
11 whether located before or after the enactment of this Act,  
12 shall pay in advance to the Secretary annually on or before  
13 September 1, and until a patent has been issued therefor,  
14 a maintenance fee of \$100 per mining claim or site. The  
15 owner of each unpatented mining claim or site located  
16 after the date of enactment of this Act pursuant to the  
17 general mining laws shall pay to the Secretary, at the time  
18 the copy of the notice or certificate of location is filed with  
19 the Bureau of Land Management pursuant to section  
20 314(b) of the Federal Land Policy and Management Act  
21 of 1976 (43 U.S.C. 1744(b)), in addition to the location  
22 fee required under subsection (f) of this section, an initial  
23 maintenance fee of \$100 per mining claim or site for the  
24 assessment year which includes the date of location of  
25 such mining claim or site. If a mining claim or site is lo-

1 cated within ninety days before September 1 and the copy  
2 of the notice or certificate of location is timely filed with  
3 the Bureau of Land Management under subsection 314(b)  
4 of the Federal Land Policy and Management Act of 1976  
5 after September 1, the annual maintenance fee payable  
6 under the first sentence of this subsection shall be paid  
7 at the time such notice or certificate of location is filed,  
8 in addition to the location fee and the initial \$100 mainte-  
9 nance fee. No maintenance fee shall be required if the fee  
10 is waived or the owner of the mining claim or site is ex-  
11 empt as provided in section 202 of this Act.

12 (b) ASSESSMENT WORK REQUIREMENTS.—

13 (1) For the first five assessment years following  
14 the assessment year which includes the date of loca-  
15 tion of any unpatented mining claim or site located  
16 on or after the date of enactment of this Act, or for  
17 the first five assessment years following the assess-  
18 ment year which includes the date of enactment of  
19 this Act for any unpatented mining claim or site lo-  
20 cated before the date of enactment, the annual  
21 maintenance fee under subsection (a) of this section  
22 shall be in lieu of the assessment work requirements  
23 of the general mining laws and of any other Federal  
24 law. Beginning with the sixth assessment year fol-  
25 lowing the assessment year which includes such date

1 of location or enactment, such assessment work re-  
2 quirements shall apply in addition to such annual  
3 maintenance fee, subject to any suspension or  
4 deferment of annual assessment work provided by  
5 law.

6 (2)(A) Section 1 of the Act of September 2,  
7 1958 (30 U.S.C. 28-1), is amended by inserting  
8 “mineral activities, environmental baseline monitor-  
9 ing, and” after “without being limited to” and be-  
10 fore “geological, geochemical and geophysical sur-  
11 veys”.

12 (B) Section 2(d) of the Act of September 2,  
13 1958 (30 U.S.C. 28-2(d)), is amended by inserting  
14 “environmental baseline monitoring or” after “expe-  
15 rience to conduct” and before “geological, geo-  
16 chemical or geophysical surveys.”

17 (C) Section 2 of the Act of September 2, 1958  
18 (30 U.S.C. 28-2), is amended by adding at the end  
19 of the following new subsection:

20 “(e) The term ‘environmental baseline monitoring’  
21 means activities for collecting, reviewing and analyzing in-  
22 formation concerning soil, vegetation, wildlife, mineral,  
23 air, water, cultural, historical, archeological or other re-  
24 sources related to planning for or complying with Federal  
25 and State environmental or permitting requirements appli-

1 cable to potential or proposed mineral activities on the  
2 claim(s).”.

3 (c) MAINTENANCE FEE STATEMENT.—Each pay-  
4 ment under subsection (a) of this section shall be accom-  
5 panied by a statement which reasonably identifies the min-  
6 ing claim or site for which the maintenance fee is being  
7 paid. Such statement may include the name of the mining  
8 claim or site, the serial number assigned by the Secretary  
9 to such mining claim or site, the description of the book  
10 and page in which the notice or certificate of location for  
11 such mining claim or site is recorded under State law, any  
12 combination of the foregoing, or any other information  
13 that reasonably identifies the mining claim or site for  
14 which the maintenance fee is being paid. The statement  
15 required under this subsection shall be in lieu of any an-  
16 nual filing requirements for mining claims or sites, under  
17 any other Federal law, but shall not supersede any such  
18 filing requirement under applicable State law.

19 (d) EFFECT OF COMPLIANCE AS AGAINST SUBSE-  
20 QUENT LOCATORS.—

21 (1) Except as provided in paragraph (d)(2) of  
22 this subsection, after the date of enactment of this  
23 Act, compliance with the requirements of this section  
24 and sections 202 and 203 shall, from the time the  
25 location notice or certificate is posted on the land

1 under applicable State law, confer upon the owner of  
2 any unpatented mining claim or site, whether lo-  
3 cated before or after the date of enactment of this  
4 Act, an exclusive right of possession, as against sub-  
5 sequent locators, of the land included in such mining  
6 claim or site for the purposes described in subsection  
7 203(a). If more than one mining claim or site owned  
8 or controlled by the same claim or site owner covers  
9 substantially the same land, by reason of the loca-  
10 tion of one or more mining claims or sites on such  
11 land, the amendment or relocation of any such min-  
12 ing claim or site, or otherwise, such exclusive right  
13 of possession shall extend to all such mining claims  
14 or sites, effective from the time the location notice  
15 or certificate for the initial mining claim or site was  
16 posted on such land under applicable State law. The  
17 order of location, amendment, or relocation of any  
18 such mining claims or sites on such land shall not  
19 affect the validity of any such mining claim or site.  
20 Such owner of the mining claim or site shall not be  
21 required to be in actual, physical occupation of such  
22 land and shall not be required to exclude rival loca-  
23 tors from such land. Such exclusive right of posses-  
24 sion shall be subject to applicable Federal law, in-  
25 cluding the Multiple Mineral Development Act of

1 1954 (30 U.S.C. 521–31), the Materials Act of 1947  
2 (30 U.S.C. 601–604) and the Surface Resources Act  
3 of 1955 (30 U.S.C. 611–15) to the extent applicable,  
4 and shall neither enlarge nor diminish any rights of  
5 such owner of the mining claim or site as against  
6 the United States in such land. This paragraph shall  
7 supersede the common law doctrine of pedis  
8 possessio.

9 (2) Conflicts over the right of exclusive posses-  
10 sion of land included in any mining claim or site  
11 shall be determined in proceedings between owners  
12 of mining claims or sites under the provisions of sec-  
13 tion 910 of the Revised Statutes (30 U.S.C. 53) and  
14 other applicable law, including but not limited to the  
15 following:

16 (A) Any conflict based upon circumstances  
17 existing as of the date of enactment of this Act  
18 between mining claims or sites located before  
19 the date of enactment of this Act, which shall  
20 be resolved under the law in effect on the day  
21 prior to the date of enactment of this Act, in-  
22 cluding the common law doctrine of pedis  
23 possessio.

24 (B) Any conflict arising on or after the  
25 date of enactment of this Act between mining

1 claims or sites located before, on or after the  
2 date of enactment over whether either owner of  
3 the mining claim or site has complied with the  
4 requirements of this section or sections 202 or  
5 203(a), which shall be resolved under this Act.

6 (e) FAILURE OF CO-OWNER TO CONTRIBUTE.—

7 Upon the failure of any one or more of several co-owners  
8 of any mining claim or site to contribute such co-owner  
9 or owners' portion of the location or maintenance fee  
10 under this section, any co-owner who has paid such fee  
11 may, after the payment due date, serve the delinquent co-  
12 owner or owners with notice of such failure in writing or,  
13 if such delinquent co-owner or owners cannot be located  
14 after reasonable efforts, by publication in a general cir-  
15 culation newspaper published in a location nearest the  
16 mining claim or site at least once a week for at least ninety  
17 days. If at the expiration of ninety days after such notice  
18 in writing or by publication, any delinquent co-owner fails  
19 or refuses to contribute the owed portion, such co-owner  
20 or owners' interest shall become the property of the owner  
21 or co-owners who have paid the required fee.

22 (f) LOCATION FEE.—The owner of each unpatented  
23 mining claim or site located on or after the date of enact-  
24 ment of this Act pursuant to the general mining laws shall  
25 pay to the Secretary, at the time the notice or certificate

1 of location is filed with the Bureau of Land Management  
2 pursuant to subsection 314(b) of the Federal Land Policy  
3 and Management Act of 1976 (43 U.S.C. 1744(b)), a loca-  
4 tion fee of \$25 per claim.

5 (g) CREDIT AGAINST ROYALTY.—The annual claim  
6 maintenance fee paid for any unpatented mining claim or  
7 site on or before September 1 of any year shall be credited  
8 against the amount of royalty required to be paid under  
9 title IV for such mining claim or site during the following  
10 assessment year.

11 (h) FEE ADJUSTMENTS AND DISPOSITION.—

12 (1) At the end of each period of five assessment  
13 years after the date of enactment of this Act, the  
14 Secretary shall adjust the maintenance fee and the  
15 location fee required by this section by an amount  
16 equal to the net adjustment in the implicit price  
17 deflator for the gross national product established by  
18 the United States Department of Commerce over the  
19 preceding five-year period, rounded up or down to  
20 the nearest dollar.

21 (2) The Secretary shall provide owners of min-  
22 ing claims or sites with notice by publication in the  
23 Federal Register of any adjustment made under  
24 paragraph (1) not later than January 1 of any as-  
25 sessment year in which the adjustment is made.

1           (3) A fee adjustment under paragraph (1) shall  
2       apply to the payment due for the next assessment  
3       year after the assessment year in which notice is  
4       given under paragraph (2).

5           (4) All maintenance and location fees received  
6       by the Secretary under this section shall be paid into  
7       the Treasury of the United States and be subject to  
8       the provision of title I of Public Law 100–446, 102  
9       Stat. 1774 (43 U.S.C. 1474) making receipts avail-  
10      able for use by the Secretary for program operations  
11      in Mining Law Administration.

12          (i) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEE UNDER ENERGY POLICY ACT OF 1992.—  
13      This section shall not apply to any oil shale claims for  
14      which a fee is required to be paid under paragraph  
15      2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C.  
16      242(e)(2)).

18          (j) FAILURE TO COMPLY.—The failure of the owner  
19      of the mining claim or site to pay the claim maintenance  
20      fee or location fee for a mining claim or site on or before  
21      the date such payment is due under subsection (a) or sub-  
22      section (f) of this section shall constitute forfeiture of the  
23      mining claim or site and such mining claim or site shall  
24      be null and void, effective as of the day after the date  
25      such payment is due: *Provided, however,* That, if such

1 maintenance fee or location fee is paid or tendered on or  
2 before the thirtieth day after such payment was due under  
3 subsection (a) or subsection (f) of this section, such min-  
4 ing claim or site shall not be forfeited or null or void, and  
5 such maintenance fee or location fee shall be deemed time-  
6 ly paid.

7 (k) REPEAL OF OMNIBUS BUDGET RECONCILIATION  
8 ACT FEE REQUIREMENTS.—Sections 10101 through  
9 10106 of the Omnibus Budget Reconciliation Act of 1993  
10 (30 U.S.C. 28f–28k) are hereby repealed.

11 (l) CONFORMING AMENDMENT.—The third sentence  
12 of section 2324 of the Revised Statutes (30 U.S.C. 28)  
13 is amended by adding the words “Except as provided in  
14 paragraph 201(b)(1) of the Mining Law Reform Act of  
15 1995,” at the beginning of such sentence and deleting the  
16 words “that is granted a waiver under section 10101 of  
17 the Omnibus Budget Reconciliation Act of 1993,”.

18 (m) AMENDMENT OF FLPMA FILING REQUIRE-  
19 MENTS.—

20 (1) Section 314(a) of the Federal Land Policy  
21 and Management Act of 1976 (43 U.S.C. 1744(a))  
22 is hereby repealed.

23 (2) Section 314(c) of the Federal Land Policy  
24 and Management Act of 1976 (43 U.S.C. 1744(c))  
25 is amended to read as follows:

1       “(c) FAILURE TO FILE AS CONSTITUTING FORFEIT-  
2 URE; DEFECTIVE OR UNTIMELY FILING.—The failure to  
3 timely file the copy of the notice or certificate of location  
4 is required by subsection (b) shall constitute forfeiture of  
5 the mining claim and such claim shall be null and void  
6 by operation of law: *Provided, however,* That it shall not  
7 be considered a failure to file if the notice or certificate  
8 of location is defective or not timely filed for record under  
9 other State or Federal laws permitting or requiring the  
10 filing or recording thereof, or if the copy of the notice or  
11 certificate is filed by or on behalf of some but not all of  
12 the owners of the claim.”.

13 **SEC. 202. WAIVER AND EXEMPTION.**

14       (a) WAIVER OF FEE.—The maintenance fee provided  
15 for in subsection 201(a) shall be waived for the owner of  
16 a mining claim or site who certifies in writing to the Sec-  
17 retary, on or before the date the payment is due, that,  
18 as of the date such payment is due, such owner and all  
19 related persons own not more than twenty-five unpatented  
20 mining claims or sites. Any owner of a mining claim or  
21 site that is not required to pay a maintenance fee under  
22 this subsection shall continue to be subject to the assess-  
23 ment work requirements of the general mining laws or of  
24 any other State or Federal law, subject to any suspension  
25 or deferment of annual assessment work provided by law,

1 for the assessment year following the filing of the certifi-  
2 cation, and paragraph 201(b)(1) of this Act shall not  
3 apply.

4 (b) RELATED PERSONS.—As used in subsection (a),  
5 the term “related persons” includes—

6 (1) the spouse and dependent children (as de-  
7 fined in section 152 of the Internal Revenue Code of  
8 1986), of the owner of the mining claim or site; and

9 (2) a person controlled by, controlling, or under  
10 common control with the owner of the mining claim  
11 or site.

12 (c) EXEMPTION.—The owner or any mining claim or  
13 site who certifies in writing to the Secretary on or before  
14 the first day of any assessment year that access to such  
15 mining claim or site was denied or impeded during the  
16 prior assessment year by the action or inaction of any  
17 local, State, or Federal governmental officer, agency, or  
18 court, or by any Indian tribal authority, shall be exempt  
19 from the maintenance fee and assessment work require-  
20 ments of subsections (a) and (b) of section 201 for the  
21 assessment year following the filing of the certification.

22 **SEC. 203. GOOD FAITH REQUIREMENT; RESIDENTIAL OC-**  
23 **CUPANCY; DIVESTMENT AND REVERTER.**

24 (a) GOOD FAITH HOLDING OF MINING CLAIM OR  
25 SITE.—The location, maintenance, and use of an

1 unpatented mining claim or site, whether located before  
2 or after enactment of this Act, shall be for the purpose  
3 of conducting mineral activities in good faith.

4 (b) RESIDENTIAL OCCUPANCY.—The Secretary shall  
5 not prohibit residential occupancy of an unpatented min-  
6 ing claim or site and shall not require removal of equip-  
7 ment or facilities until mineral activities are completed,  
8 if such occupancy is shown in a notice of intent or plan  
9 of operations to be reasonably required to accomplish the  
10 mineral activities described therein.

11 (c) DIVESTMENT AND REVERTER.—

12 (1) Notwithstanding any other provision of law,  
13 a patent issued under section 204(a) shall be di-  
14 vested if it is used for any purpose other than for  
15 conducting mineral activities in good faith and such  
16 unauthorized use is not discontinued as provided in  
17 paragraph (c)(2). Upon occurrence of the foregoing  
18 condition, the State in which such patented estate is  
19 located shall have an election to receive such pat-  
20 ented estate as provided in paragraph (c)(4). If such  
21 State elects not to receive such patented estate or  
22 fails to exercise its election in the time specified in  
23 paragraph (c)(5), all right, title and interest in such  
24 estate shall revert to the United States.

1           (2) If the patented estate is used for any pur-  
2           pose other than for conducting mineral activities in  
3           good faith, the Secretary shall serve on all owners of  
4           interests in such patented estate and the Governor  
5           of the State in which the patented estate is located,  
6           in the manner prescribed for service of a summons  
7           and complaint under the Federal Rules of Civil Pro-  
8           cedure, notice specifying such unauthorized use and  
9           providing not more than ninety days in which such  
10          unauthorized use must be terminated. The giving of  
11          such notice shall constitute final agency action ap-  
12          pealable by any owner of an interest in such pat-  
13          ented estate. The Governor of the State in which  
14          such patented estate is located or the Secretary may  
15          exercise their respective rights provided herein below  
16          in paragraph (c)(4) and paragraph (c)(5) if such un-  
17          authorized use has not been terminated in the time  
18          provided in this paragraph, and only after all appeal  
19          rights have expired and any appeals of such notice  
20          have been finally determined.

21          (3) Within one hundred and eighty days after  
22          the expiration of the time provided in the notice  
23          given by the Secretary under paragraph (c)(2), or  
24          within one hundred and eighty days after all appeals  
25          rights have expired and any appeals of such notice

1 have been finally determined, whichever is the later  
2 to occur, the Governor of the State in which such  
3 patented estate is located may elect for such State  
4 to receive title to such patented estate by filing in  
5 the office of the Bureau of Land Management des-  
6 ignated by the Secretary, and recording in the office  
7 where the notice or certificate of location for the  
8 patented claim or site is recorded under State law  
9 a declaration of the State's election to receive such  
10 interest. Upon the filing and recording of such dec-  
11 laration, all right, title, and interest in such pat-  
12 ented estate shall vest in such State, subject to the  
13 payment by such State to the United States of one-  
14 half of all revenues, including without limitation,  
15 rentals, royalties, and severance or other taxes, from  
16 future mineral production from such patented lands.  
17 If the Governor of the State for any reason deter-  
18 mines that receipt of such patented estate would not  
19 be in the best interests of the State for any reason,  
20 the Governor shall file and record a declaration of  
21 the State's election not to receive such interest with-  
22 in one hundred and eighty days and in the same  
23 manner as prescribed above.

24 (4) Within one hundred and eighty days after  
25 the filing and recording of a declaration by the State

1 not to receive the patented estate as provided in  
2 paragraph (c)(4), or within one hundred and eighty  
3 days after the expiration of the one hundred and  
4 eighty-day period described in such paragraph if the  
5 Governor fails to file and record either of the instru-  
6 ments described in such paragraph, the Secretary  
7 may exercise the right of the United States to reen-  
8 ter such patented estate by filing a declaration of re-  
9 entry in the office of the Bureau of Land Manage-  
10 ment designated by the Secretary and recording  
11 such declaration where the notice or certificate of lo-  
12 cation for the patented claim or site is recorded  
13 under State law. Upon the filing and recording of  
14 such declaration, all right, title and interest in such  
15 patented estate shall revert to the United States.

16 **SEC. 204. PATENTS.**

17 (a) IN GENERAL.—Any patent issued by the United  
18 States under the general mining laws after the date of  
19 enactment of this Act shall be issued only—

20 (1) upon payment by the owner of the mining  
21 claim or site of the fair market value for the interest  
22 in the land owned by the United States exclusive of  
23 and without regard to the mineral deposits in the  
24 land or the use of the land for mineral activities;  
25 and

1           (2) subject to reservation by the United States  
2           of the royalty provided in title IV, unless the re-  
3           quirements of subsection (b) are met.

4           (b) PATENT TRANSITION.—(1) Notwithstanding any  
5           other provision of law, a mineral survey application or pat-  
6           ent application for any unpatented mining claim or site  
7           shall be processed and a patent shall be issued pursuant  
8           to the general mining laws in effect on the date imme-  
9           diately preceding the date of enactment of this Act and  
10          upon payment of fair market value for the surface as pro-  
11          vided in paragraph (a)(1) if—

12           (A) a copy of the notice or certificate of loca-  
13          tion was filed with the Bureau of Land Management  
14          pursuant to subsection 314(b) of the Federal Land  
15          Policy and Management Act of 1976 (43 U.S.C.  
16          1744(b)) for the mining claim or site on or before  
17          March 7, 1995; and

18           (B) the owner of the mining claim or site has  
19          filed a patent application or mineral survey applica-  
20          tion prior to the date of enactment of this Act, or  
21          files such an application with the Bureau of Land  
22          Management within one year after the date of enact-  
23          ment of this Act: *Provided*, That any patent applica-  
24          tion must be filed before or within one year after the  
25          date of enactment of this Act, or within one hundred

1 and eighty days after the owner of the mining claim  
2 or site receives the certificate of approval by the Bu-  
3 reau of Land Management of the mineral survey,  
4 whichever date is later: *Provided further*, That a pat-  
5 ent application or mineral survey application shall be  
6 deemed timely filed if the application is filed within  
7 the prescribed period, notwithstanding that the Bu-  
8 reau of Land Management may require that the ap-  
9 plication be corrected or supplemented and resub-  
10 mitted.

11 (2) During the one year period prescribed in para-  
12 graph (1)(B), or while there is pending a mineral survey  
13 or patent application to which this subsection applies, an  
14 owner of the mining claim or site may continue work on  
15 a mining claim or site directed toward establishment and  
16 confirmation of entitlement to a patent, and may amend  
17 the applications as necessary.

18 (c) REPEAL OF PATENTING MORATORIUM; PROCESS-  
19 ING OF PATENT APPLICATIONS.—(1) Sections 112 and  
20 113 of Public Law 103–332 are hereby repealed. The Sec-  
21 retary shall diligently process all applications for patent  
22 and shall make determinations for all such applications  
23 regarding patent issuance as expeditiously as possible.

24 (2) The provisions of this Act shall not apply to any  
25 mining or mill site claim: (A) for which a patent applica-

1 tion was filed with the Secretary on or before the date  
2 of enactment of Public Law 93-332; and (B) for which  
3 the applicant had fully complied with the requirements es-  
4 tablished under sections 2325 and 2326 of the Revised  
5 Statutes (30 U.S.C. 29 and 30) for vein or lode claims  
6 and sections 2329, 2330, 2331, and 2333 of the Revised  
7 Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and  
8 section 2337 of the Revised Statutes (30 U.S.C. 42) for  
9 mill site claims, whichever the case.

10 **TITLE III—SURFACE MANAGEMENT OF**  
11 **MINERAL ACTIVITIES**

12 **SEC. 301. PURPOSE; APPLICABILITY; OPERATING AND**  
13 **RECLAMATION STANDARDS.**

14 (a) PURPOSE.—It is the purpose of this title to pro-  
15 vide for mineral entry, exploration, location and operations  
16 pursuant to the general mining laws in a manner that will  
17 not unduly hinder such activities or diminish rights, in-  
18 cluding but not limited to all statutory and common law  
19 rights of access, obtained under the general mining laws  
20 or other authorities, but will assure that such activities  
21 are conducted in a manner that will prevent unnecessary  
22 and undue degradation of nonmineral surface resources on  
23 Federal lands. Compliance with the provisions of this title  
24 shall constitute a compliance with—(i) the final sentence  
25 of subsection 302(b) of the Federal Land Policy and Man-

1 agement Act (43 U.S.C. 1732(b)); and (ii) any standard  
2 related to the management of surface resources within the  
3 National Forest System contained in or derived from the  
4 Organic Administration Act (16 U.S.C. 473 et seq.), the  
5 Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528  
6 et seq.), the Forest and Rangeland Renewable Resources  
7 Planning Act of 1974 (16 U.S.C. 1601 et seq.), or any  
8 other law applicable to Federal lands subject to this title  
9 within the National Forest System.

10 (b) APPLICABILITY.—This title shall apply only to  
11 mineral activities on those Federal lands where the surface  
12 estate is managed by the Bureau of Land Management  
13 or the United States Forest Service.

14 (c) OPERATIONS.—All mineral activities on Federal  
15 lands shall be conducted so as to prevent unnecessary and  
16 undue degradation of Federal lands by complying with ap-  
17 plicable requirements of Federal and State environmental  
18 protection laws, including but not limited to—

19 (1) the Atomic Energy Act of 1954 (42 U.S.C.  
20 2011 et seq.);

21 (2) the Clean Air Act (42 U.S.C. 7401 et seq.);

22 (3) the Comprehensive Environmental Re-  
23 sponse, Compensation, and Liability Act of 1980 (42  
24 U.S.C. 9601 et seq.);

1           (4) the Endangered Species Act of 1973 (16  
2 U.S.C. 1531 et seq.);

3           (5) the Federal Land Policy and Management  
4 Act of 1976 (43 U.S.C. 1701 et seq.);

5           (6) the Federal Mine Safety and Health Act of  
6 1977 (30 U.S.C. 801 et seq.);

7           (7) the Federal Water Pollution Control Act  
8 (commonly referred to as the “Clean Water Act”)  
9 (33 U.S.C. 1251 et seq.);

10          (8) the Forest and Rangeland Renewable Re-  
11 sources Planning Act of 1974 (16 U.S.C. 1600 et  
12 seq.);

13          (9) the Migratory Bird Treaty Act (16 U.S.C.  
14 703 et seq.);

15          (10) the National Environmental Policy Act of  
16 1969 (42 U.S.C. 4321 et seq.);

17          (11) the National Historic Preservation Act (16  
18 U.S.C. 470 et seq.);

19          (12) title XIV of the Public Health Service Act  
20 (commonly referred to as the “Safe Drinking Water  
21 Act”) (42 U.S.C. 300f et seq.);

22          (13) the Solid Waste Disposal Act (42 U.S.C.  
23 6901 et seq.);

24          (14) the Toxic Substances Control Act (15  
25 U.S.C. 2601 et seq.); and

1           (15) the Uranium Mill Tailings Radiation Con-  
2           trol Act of 1978 (42 U.S.C. 7901 et seq.).

3           (d) RECLAMATION.—In order to prevent unnecessary  
4 and undue degradation of surface resources, Federal lands  
5 disturbed by mineral activities shall be reclaimed, to the  
6 extent economically and technically practicable, in compli-  
7 ance with the provisions of subsection 304(a).

8           (e) DESIGNATED LANDS.—Where any mineral activi-  
9 ties are to be conducted on Federal lands administered  
10 by the Bureau of Land Management or the Forest Service  
11 specifically designated by any special Act of Congress that  
12 applies a specific land management, resource protection  
13 or reclamation standard (such as wild and scenic rivers  
14 and designated wilderness) to such lands, such manage-  
15 ment or protection standard shall apply to the extent of  
16 any conflict with the provisions of this title.

17 **SEC. 302. AUTHORIZATION FOR MINERAL ACTIVITIES.**

18           (a) IN GENERAL.—Except as otherwise provided in  
19 subsections (b) and (c) of this section, no person may en-  
20 gage in mineral activities on Federal lands unless that per-  
21 son has filed a plan of operations with, and received ap-  
22 proval of the plan from, the Secretary in accordance with  
23 section 303.

24           (b) NOTICE REQUIRED.—

1           (1) A person may engage in mineral activities  
2           on Federal lands that cause only minor, short term,  
3           readily reclaimable impacts on surface resources, in-  
4           cluding but not limited to initial exploratory test  
5           hole drilling and road construction, only after filing  
6           with the Secretary a notice of intent to conduct such  
7           activities.

8           (2) Such notice shall include—

9           (A) the name and mailing address of the  
10          operator;

11          (B) when applicable, the name of the min-  
12          ing claim(s) or site(s), and serial number(s) as-  
13          signed to the mining claims(s) or site(s) on  
14          which mineral activities are proposed;

15          (C) a statement describing the activities  
16          proposed and their location in sufficient detail  
17          to locate the operations on the ground, and giv-  
18          ing the approximate date when activities will  
19          begin. The statement shall include a description  
20          and the location of any access routes to be con-  
21          structed or improved and the type of equipment  
22          to be used in their construction;

23          (D) a statement that reclamation of all  
24          areas will be completed as required by sub-  
25          section 301(d), and that mineral activities will

1           comply with the operations standard as re-  
2           quired by subsection 301(c); and

3                   (E) evidence of financial assurance as re-  
4           quired by section 306.

5           (3) Failure of the operator to conduct mineral  
6           activities in conformance with the notice and the re-  
7           quirements of this title may cause the operator to be  
8           subject to enforcement pursuant to section 308.

9           (4) The Secretary shall review the notice within  
10          thirty days of receipt. If the Secretary determines  
11          that the proposed mineral activities will, or are likely  
12          to cause more than minor, short term, readily re-  
13          claimable impacts on surface resources, the Sec-  
14          retary shall provide a statement of reasons explain-  
15          ing why the mineral activities cannot proceed under  
16          notice and shall require in writing that the operator  
17          submit a proposed plan of operations in accordance  
18          with the requirements of this section. Failure of the  
19          Secretary to respond in writing within thirty days of  
20          receipt of the notice shall be deemed to be approval  
21          of the mineral activities proposed in the notice.

22          (5) The Secretary shall establish by regulation  
23          from time to time additional categories of mineral  
24          activities which may be conducted under notice  
25          based on the amount of surface to be disturbed, the

1 type of equipment to be used, the time required for  
2 reclamation, and other relevant factors.

3 (c) OTHER MINERAL ACTIVITIES.—Notwithstanding  
4 the provisions of subsections (a) and (b), any person may  
5 conduct mineral activities on Federal lands which cause  
6 only a minimal disturbance of surface resources, including  
7 but not limited to claim location; exploration; geological,  
8 geophysical or geochemical surveys; environmental base-  
9 line monitoring; activities related to the gathering of data  
10 related to the preparation or analysis of a notice or plan  
11 of operations under this title, or required under any other  
12 applicable Federal or State environmental law or regula-  
13 tion; and other activities designated by the Secretary,  
14 without filing a notice or plan of operations with the Sec-  
15 retary.

16 (d) TRANSFER OF RIGHTS.—An operator may trans-  
17 fer, assign or sell any rights associated with a notice with-  
18 out approval by the Secretary: *Provided*, That the succes-  
19 sor in interest agrees in writing to assume the liabilities  
20 and reclamation responsibilities established under sub-  
21 section (b) and provide evidence of financial assurance as  
22 required under section 306. The transfer, assignment or  
23 sale shall not become effective prior to the filing of such  
24 writing and evidence of financial assurance with the Sec-  
25 retary. The financial assurance of the transferee shall be

1 substituted for the assurance previously submitted by the  
2 transferor and the financial assurance of the transferor  
3 shall be fully released.

4 **SEC. 303. PLAN OF OPERATIONS; CONTENT, REVIEW AND**  
5 **APPROVAL**

6 (a) PLANS OF OPERATIONS REQUIREMENTS.—A  
7 plan of operations required under this title shall contain—

8 (1) the name and mailing address of the opera-  
9 tor,

10 (2) when applicable, the name of the mining  
11 claim(s) or site(s), and serial number(s) assigned to  
12 the mining claim(s) or site(s) on which mineral ac-  
13 tivities are proposed;

14 (3) a general description of the mineral activi-  
15 ties proposed, including the anticipated periods dur-  
16 ing which the proposed mineral activities will occur;

17 (4) a map showing existing and/or proposed  
18 routes of surface access, or other means of access,  
19 and identifying areas where surface disturbance will  
20 occur;

21 (5) information describing the land and water  
22 resources of the area expected to be disturbed by the  
23 proposed mineral activities and any proposed mitiga-  
24 tion measures necessary to comply with the require-  
25 ments of this title;

1           (6) a reclamation plan which includes proposed  
2           measures to reclaim Federal lands disturbed by the  
3           proposed mineral activities as required under sub-  
4           section 301(d);

5           (7) evidence of adequate financial assurance as  
6           required under section 306; and

7           (8) a monitoring plan to assure compliance with  
8           the requirements of the plan of operations.

9           (b) PLAN OF OPERATIONS REVIEW.—A proposed  
10          plan of operations shall be submitted to the Secretary, who  
11          shall promptly acknowledge receipt thereof to the opera-  
12          tor. The Secretary shall promptly review the proposed plan  
13          of operations and shall notify the operator within thirty  
14          days—

15                 (1) that the plan of operations has been ap-  
16                 proved as submitted;

17                 (2) of all changes in, or additions to the pro-  
18                 posed plan of operations necessary to comply with  
19                 the requirements of this title; or

20                 (3) that a specified reasonable amount of time  
21                 is necessary to complete the review, setting forth the  
22                 circumstances which justify the additional time.

23           (c) MINERAL ACTIVITIES PENDING REVIEW.—Any  
24          operator who has submitted a plan of operations under  
25          this section may continue to conduct mineral activities

1 otherwise authorized pursuant to subsections (b) and (c)  
2 of section 302 within the geographic area covered by the  
3 proposed plan of operations pending its approval.

4 (d) PLAN OF OPERATIONS APPROVAL.—(1) The Sec-  
5 retary shall approve a proposed plan of operations within  
6 a reasonable period of time if—

7 (A) the proposed plan of operations substan-  
8 tially complies with the requirements of this title;  
9 and

10 (B) the applicant has complied with the re-  
11 quirements of section 306 concerning financial as-  
12 surance.

13 (2) If, after review, the Secretary determines  
14 that a proposed plan of operations will not substan-  
15 tially comply with the requirements of this title, the  
16 Secretary shall specify all deficiencies in the pro-  
17 posed plan, shall request the operator to modify the  
18 proposed plan to comply with the requirements of  
19 this title and shall specify all necessary modifications  
20 to the proposed plan.

21 (e) MODIFICATIONS TO AN APPROVED PLAN OF OP-  
22 ERATIONS.—

23 (1) MINOR MODIFICATIONS.—At any time dur-  
24 ing which mineral activities are being conducted  
25 under an approved plan of operations, an operator

1 may make minor modifications to the approved plan  
2 of operations by notifying the Secretary. Failure of  
3 the Secretary to respond in writing within thirty  
4 days of receipt of the proposed minor modification  
5 shall be deemed to be approval of the minor modi-  
6 fication. For purposes of this title, a “minor modi-  
7 fication” is a change to the approved plan of oper-  
8 ations that is not likely to result in significant im-  
9 pacts to surface resources different from those pre-  
10 viously considered in the approved plan of oper-  
11 ations.

12 (2) REVIEW OF MINOR MODIFICATIONS.—If the  
13 Secretary determines that a proposed minor modi-  
14 fication may be significant, the Secretary shall pro-  
15 vide a statement of reasons and may require the op-  
16 erator to submit a significant modification to the  
17 plan of operations pursuant to paragraph (3) of this  
18 subsection.

19 (3) SIGNIFICANT MODIFICATION.—At any time  
20 during activities under an approved plan of oper-  
21 ations, the operator may propose a significant modi-  
22 fication to the approved plan of operations. A sig-  
23 nificant modification must be submitted, reviewed  
24 and approved in the same manner as a plan of oper-  
25 ations under this section, except that the modifica-

1       tion need not include information required under  
2       subsection 303(a) if the modification requires no  
3       change to such information: *Provided, however,* That  
4       approval of such modification shall neither require  
5       nor be denied or conditioned upon retrofit, redesign,  
6       reconstruction, closure or change in the operation of  
7       any facility, structure or mineral activity previously  
8       approved. For purposes of this title, a “significant  
9       modification” is a change to the approved plan of  
10      operations which is likely to result in significant im-  
11      pacts to surface resources different from those pre-  
12      viously considered in the approved plan of oper-  
13      ations.

14           (4) REQUEST BY SECRETARY.—At any time  
15      during which mineral activities are being conducted  
16      under an approved plan of operations, the Secretary  
17      may request that an operator submit a modification  
18      to the approved plan of operations together with a  
19      written determination that such modification is nec-  
20      essary to prevent unnecessary and undue degrada-  
21      tion of Federal lands as required by section 301.  
22      The Secretary’s determination that a modification is  
23      necessary shall be subject to notice to the operator  
24      and a right to a hearing at the request of the opera-  
25      tor. If the Secretary has requested a modification

1 under this paragraph, mineral activities may con-  
2 tinue in accordance with the approved plan of oper-  
3 ations until the modification is submitted, reviewed  
4 and approved.

5 (f) TERM.—An approved plan of operations shall re-  
6 main in effect as approved until the mineral activities sub-  
7 ject to the approved plan of operations are completed or  
8 until the plan of operations is modified.

9 (g) TRANSFER OF RIGHTS.—An operator may trans-  
10 fer, assign or sell any rights associated with an approved  
11 plan of operations without approval by the Secretary, pro-  
12 vided that the successor in interest agrees in writing to  
13 assume the liabilities and reclamation responsibilities es-  
14 tablished by the approved plan of operations and provide  
15 evidence of financial assurance as required under section  
16 306. The transfer, assignment or sale shall not become  
17 effective prior to the filing of such writing and evidence  
18 of financial assurance with the Secretary. The financial  
19 assurance of the transferee shall be substituted for the as-  
20 surance previously submitted by the transferor, and the  
21 financial assurance of the transferor shall be fully re-  
22 leased.

23 **SEC. 304. RECLAMATION.**

24 A reclamation plan submitted with a proposed plan  
25 of operations pursuant to section 303 shall include appro-

1 p r i a t e m e a s u r e s t o c o m p l y w i t h s u b s t a n t i v e r e c l a m a t i o n  
2 r e q u i r e m e n t s o f t h e S t a t e i n w h i c h t h e p r o p o s e d m i n e r a l  
3 a c t i v i t i e s w i l l b e l o c a t e d t o t h e e x t e n t t h a t t h o s e r e q u i r e -  
4 m e n t s a r e n o t i n c o n f l i c t w i t h t h e p u r p o s e s o f t h e g e n e r a l  
5 m i n i n g l a w s a n d t h i s A c t , a n d t h e a p p l i c a b l e p r o v i s i o n s  
6 o f S t a t e a n d F e d e r a l e n v i r o n m e n t a l p r o t e c t i o n l a w s , i n -  
7 c l u d i n g t h o s e F e d e r a l l a w s l i s t e d i n s u b s e c t i o n 3 0 1 ( c ) . A  
8 p r o p o s e d r e c l a m a t i o n p l a n t h a t c o m p l i e s w i t h s u c h S t a t e  
9 a n d F e d e r a l r e q u i r e m e n t s s h a l l b e d e e m e d s u f f i c i e n t t o  
1 0 p r e v e n t u n n e c e s s a r y a n d u n d u e d e g r a d a t i o n a n d t o c o m p l y  
1 1 w i t h s u b s e c t i o n 3 0 1 ( d ) , a n d c e r t i f i c a t i o n o r o t h e r a p p r o v a l  
1 2 i s s u e d b y a S t a t e o r F e d e r a l a g e n c y o f c o m p l i a n c e w i t h  
1 3 s u c h l a w s s h a l l b e d e e m e d c o m p l i a n c e w i t h t h i s s e c t i o n .

1 4 **SEC. 305. TRANSITION RULES.**

1 5 ( a ) A P P L I C A B I L I T Y T O E X I S T I N G O P E R A T I O N S . —  
1 6 M i n e r a l a c t i v i t i e s f o r w h i c h a n o p e r a t o r i s a u t h o r i z e d t o  
1 7 p r o c e e d u n d e r n o t i c e o r f o r w h i c h a p l a n o f o p e r a t i o n s h a s  
1 8 b e e n a p p r o v e d p r i o r t o t h e d a t e o f e n a c t m e n t o f t h i s A c t  
1 9 s h a l l c o n t i n u e u n d e r t h e t e r m s a n d c o n d i t i o n s o f s u c h n o -  
2 0 t i c e o r p l a n . N o t i c e s w h i c h w e r e f i l e d w i t h i n t h i r t y d a y s  
2 1 o f t h e e f f e c t i v e d a t e o f e n a c t m e n t , a n d p l a n s o f o p e r a t i o n s  
2 2 w h i c h h a v e b e e n s u b m i t t e d b e f o r e b u t n o t a p p r o v e d o n t h e  
2 3 d a t e o f e n a c t m e n t o f t h i s A c t , s h a l l b e r e v i e w e d b a s e d o n  
2 4 t h e l a w e x i s t i n g o n t h e d a y p r i o r t o t h e d a t e o f e n a c t m e n t  
2 5 o f t h i s A c t . S i g n i f i c a n t m o d i f i c a t i o n s t o a p p r o v e d p l a n s

1 of operations shall be submitted, reviewed and approved  
2 pursuant to the applicable requirements of this title: *Pro-*  
3 *vided, however,* That approval of such modifications shall  
4 neither require nor be conditioned upon retrofit, redesign,  
5 reconstruction or change in the operation of any facility,  
6 structure or mineral activity previously approved.

7 (b) FINANCIAL ASSURANCE AND ENFORCEMENT.—  
8 Notwithstanding the provisions of subsection (a), the en-  
9 forcement provisions of section 308 shall apply to all min-  
10 eral activities on the effective date of this Act and, within  
11 one year after the effective date of this Act, all operators  
12 operating under notice or a plan of operations shall submit  
13 to the Secretary evidence of adequate financial assurance  
14 as may be required under section 306.

15 **SEC. 306. FINANCIAL ASSURANCE.**

16 (a) EVIDENCE OF FINANCIAL ASSURANCE.—(1)  
17 Prior to the commencement of any mineral activities re-  
18 quiring a plan of operations, an operator shall furnish evi-  
19 dence to the Secretary of a bond, surety, self-insurance  
20 or other financial assurance (including the use of bonding  
21 pools or a financial assurance instrument posted with a  
22 State or another Federal agency) in an amount sufficient  
23 to cover the reasonably estimated cost to complete rec-  
24 lamation as required by the plan of operations.

1           (2)(A) Prior to conducting notice activities subject to  
2 subsection 302(b), the operator shall comply with the fi-  
3 nancial assurance requirements promulgated by the Sec-  
4 retary applicable to such notice activities. Such require-  
5 ments shall allow operators or owners of mining claims  
6 or sites to use bonding pools or statewide or nationwide  
7 bonds. Statewide or nationwide bonds shall be in amounts  
8 fixed by regulation that cover notice activities at multiple  
9 locations statewide or nationwide, as appropriate.

10           (B) For such notice activities conducted between the  
11 date of enactment of this Act and the effective date of  
12 such regulations, the operator or owner of the mining  
13 claim or site shall provide evidence of financial assurance,  
14 in the form and manner authorized by the Secretary's reg-  
15 ulations in effect on the date of enactment of this Act,  
16 in an amount sufficient to cover the reasonably estimated  
17 cost of reclamation required as a result of such notice  
18 activities.

19           (b) REVIEW AND ADJUSTMENT.—Not later than five  
20 years after the financial assurance is provided, and each  
21 five years thereafter, or at the request of the operator,  
22 the Secretary shall review its adequacy and may increase  
23 or decrease the amount of the financial assurance based  
24 upon changed circumstances, including a determination by

1 the Secretary that a portion of the reclamation has been  
2 completed.

3 (c) FINANCIAL ASSURANCE FOR INCREMENTS.—Fi-  
4 nancial assurance for increments of mineral activities may  
5 be authorized if the financial assurance for an increment  
6 covers all reclamation costs within the area covered by the  
7 notice or plan or operations for that increment. After rec-  
8 lamation is completed, an operator may apply for, and the  
9 Secretary may grant, release the financial assurance for  
10 the completed increment.

11 **SEC. 307. FEDERAL AND STATE AUTHORITY AND COOPERA-**  
12 **TION.**

13 (a) COOPERATIVE AGREEMENT.—

14 (1) Upon request from a State, the Secretary  
15 shall enter into a cooperative agreement with that  
16 State for joint administration of the requirements of  
17 this title relating to mineral activities requiring a no-  
18 tice or plan of operations, financial assurances, rec-  
19 lamation, inspection and enforcement if the Sec-  
20 retary determines in writing that such State has the  
21 capability to implement the agreement in a manner  
22 consistent with the purposes of this title. A coopera-  
23 tive agreement may cover (i) some or all of the re-  
24 sponsibilities enumerated in this paragraph, and (ii)

1 some or all mineral activities on Federal land within  
2 a State.

3 (2) Under a cooperative agreement, a State and  
4 the Secretary may jointly administer mineral activi-  
5 ties on Federal lands. The State and the Secretary  
6 shall make an independent and timely decision re-  
7 garding individual plans of operation under this  
8 title, but in no event shall the State's authority  
9 under applicable Federal environmental protection  
10 statutes be restricted.

11 (3) Under a cooperative agreement, the State  
12 may conduct inspections and monitoring activities,  
13 and take enforcement actions deemed necessary to  
14 determine or require compliance with the require-  
15 ments of this Act, other than recommending civil ac-  
16 tions under section 308. The Secretary may not take  
17 enforcement action where a State under a coopera-  
18 tive agreement already has initiated appropriate en-  
19 forcement action unless the State requests that the  
20 Secretary recommend initiation of a civil action  
21 under section 308.

22 (4) Under a cooperative agreement, the finan-  
23 cial assurance sufficient to cover reclamation of Fed-  
24 eral lands shall be calculated based on the comple-  
25 tion of both the Federal and State reclamation re-

1        requirements, and may be held as one bond. The fi-  
2        nancial assurance shall be approved by both the Sec-  
3        retary and the State prior to approval of a plan of  
4        operations, and the Secretary and the State may  
5        agree that the financial assurance may not be re-  
6        leased without Federal and State concurrence. Fi-  
7        nancial assurance that duplicates financial assurance  
8        required under other State or Federal law shall not  
9        be required under this title.

10        (5) If a cooperative agreement is entered into  
11        pursuant to this section, the Secretary shall, subject  
12        to appropriations, reimburse the State for its regu-  
13        latory costs in an amount approximating, but not ex-  
14        ceeding, the reasonably estimated amount the Sec-  
15        retary would have reasonably expended absent a co-  
16        operative agreement.

17        (6) Each cooperative agreement entered into  
18        pursuant to this section shall provide that (i) the  
19        Secretary shall take appropriate action, including  
20        termination of the agreement, upon a determination  
21        that State performance under the agreement is not  
22        in substantial compliance with the agreement or the  
23        requirements of this title, and (ii) prior to taking  
24        any such action, the Secretary shall provide notice to

1 the State allowing the State a reasonable time to  
2 come into substantial compliance.

3 (b) EXISTING AGREEMENTS.—Any cooperative  
4 agreement or memorandum of understanding between the  
5 Secretary and any State related to the surface manage-  
6 ment of mineral activities on Federal lands subject to this  
7 Act in existence on the date of enactment of this Act shall  
8 continue in force unless the Secretary determines such  
9 agreement or memorandum of understanding is inconsis-  
10 tent with the provisions of this title.

11 **SEC. 308. ENFORCEMENT, ADMINISTRATIVE AND JUDICIAL**  
12 **REVIEW.**

13 (a) INSPECTIONS.—The Secretary, or a State if the  
14 State has entered into a cooperative agreement pursuant  
15 to section 307, shall conduct a minimum of one complete  
16 inspection each year of mineral activities for which a plan  
17 of operations or notice is required under section 302 to  
18 ensure compliance with the terms of the plan or notice.  
19 The operator shall grant access at reasonable times and  
20 under reasonable circumstances to the appropriate des-  
21 ignated representative of the Secretary or State when re-  
22 quested. The Secretary or the State must give reasonable  
23 notice to the operator before commencing any inspection.  
24 The Secretary or the State may inspect more frequently,  
25 if warranted, and may modify the inspection schedule as

1 necessary for mineral activities that are conducted on a  
2 seasonal basis.

3 (b) COMPLIANCE ORDERS.—

4 (1) Whenever, on the basis of any inspection  
5 authorized by subsection (a), the Secretary finds  
6 that the operator is in violation of any term or con-  
7 dition of a plan of operations or notice, the Sec-  
8 retary may issue an order requiring the operator to  
9 comply with such requirement, or may request the  
10 Attorney General to bring a civil action in accord-  
11 ance with subsection (c): *Provided, however,* That  
12 the Secretary shall not request commencement of a  
13 civil action if (i) the violation is corrected within  
14 thirty days, and (ii) the violation is neither causing  
15 nor likely to cause irreparable harm to the environ-  
16 ment or a threat to human health or safety.

17 (2) Any order issued under this subsection shall  
18 state with reasonable specificity the nature of the  
19 violation and shall require compliance within a rea-  
20 sonable period of time specified in the order. The  
21 Secretary may extend the time specified for compli-  
22 ance for a reasonable period, considering the serious-  
23 ness of the violation and any good faith efforts to  
24 comply with the terms and conditions of the plan of  
25 operation.

1 (c) CIVIL ACTIONS.—At the request of the Secretary,  
2 the Attorney General may institute a civil action in the  
3 district court of the United States for the district in which  
4 the affected operation is located for a temporary restrain-  
5 ing order, injunction, civil penalties as provided in sub-  
6 section (d), or other appropriate remedy, when the opera-  
7 tor (i) violates or refuses to comply with an order issued  
8 by the Secretary under subsection (b), or (ii) refuses to  
9 allow an inspection authorized under subsection (a).

10 (d) CIVIL PENALTIES.—An operator that fails to  
11 comply with the requirements applicable to mineral activi-  
12 ties conducted under notice pursuant to section 302 or the  
13 terms or conditions a plan of operations approved under  
14 section 302, after notice of such failure and expiration of  
15 a reasonable period allowed for abatement as specified  
16 pursuant to subsection (b), is subject to a civil penalty  
17 of not more than \$5,000 for each day of the continuance  
18 of such noncompliance. In determining the amount of the  
19 penalty, the court shall consider the existence of previous  
20 violations at the operation, the seriousness of the violation,  
21 the likelihood of irreparable harm to the environment and  
22 any hazard to the health or safety of the public, whether  
23 the operator was negligent, and the good faith of the oper-  
24 ator.

25 (e) ADMINISTRATIVE REVIEW.—

1           (1) Any operator issued a compliance order  
2 under this section may apply to the Secretary for re-  
3 view of the order within thirty days of receipt there-  
4 of, or as the case may be, within thirty days of such  
5 order being modified.

6           (2) The Secretary shall provide an opportunity  
7 for a hearing on the record at the request of the  
8 operator.

9           (3) Pending completion of any review proceed-  
10 ings under this subsection, the operator may file  
11 with the Secretary a written request that the Sec-  
12 retary grant temporary relief from any order issued  
13 under this section, supported by a detailed statement  
14 of reasons for such relief. The Secretary shall expe-  
15 ditiously issue an order or decision granting or deny-  
16 ing such relief.

17           (f) FINAL AGENCY ACTION.—Final agency action  
18 under this title shall be subject to judicial review pursuant  
19 to 5 U.S.C. 701–706 and 28 U.S.C. 1331.

20 **SEC. 309. SAVINGS CLAUSE.**

21           The provisions of this title shall supersede any provi-  
22 sion of the general mining laws or the Federal Land Policy  
23 and Management Act, and any standard related to the  
24 management of surface resources within the National For-  
25 est System contained in or derived from the Organic Ad-

1 ministration Act (16 U.S.C. 473 et seq.), the Multiple-  
2 Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.),  
3 the Forest and Rangeland Renewable Resources Planning  
4 Act of 1974 (16 U.S.C. 1601 et seq.), or any other law  
5 applicable to Federal lands subject to this title within the  
6 National Forest System, and any rules promulgated under  
7 such laws, only to the extent that such laws or rules con-  
8 flict or are inconsistent with the provisions of this title.  
9 Orders, rules and regulations in effect as of the date of  
10 enactment of this Act which govern surface management  
11 of mineral activities shall remain in effect under the au-  
12 thority of this title.

## 13 **TITLE IV—ROYALTY**

### 14 **SEC. 401. ROYALTY.**

15 (a) IN GENERAL.—The production and sale of  
16 locatable minerals (including associated minerals) from  
17 any unpatented mining claim (other than those from Fed-  
18 eral lands to which subsection 204(b) applies) or any min-  
19 ing claim patented under subsection 204(a) shall be sub-  
20 ject to a royalty of three percent of the Net Proceeds from  
21 such production mined and sold from such claim: *Pro-*  
22 *vided*, That for any mine with an annual Gross Yield of  
23 less than \$500,000 the royalty shall be waived: *Provided*  
24 *further*, That no royalty shall be payable pursuant to this  
25 title with respect to minerals processed at a facility by the

1 same person or entity which extracted the minerals if an  
2 urban development action grant has been made under sec-  
3 tion 119 of the Housing and Community Development Act  
4 of 1974 with respect to any portion of such facility. The  
5 obligation to pay royalties hereunder shall accrue only  
6 upon the sale of locatable minerals or mineral products  
7 produced from a mining claim subject to such royalty, and  
8 not upon the stockpiling of the same for future processing.

9 (b) DEFINITIONS.—For the purposes of this title,  
10 the term—

11 (1) “Gross Yield” shall mean—

12 (A) in the case of sales of gold and silver  
13 ore, concentrates or bullion, or the sales of  
14 other locatable minerals in the form of ore or  
15 concentrates, the actual proceeds of sale of such  
16 ore, concentrates or bullion;

17 (B) in the case of sales of beneficiated  
18 products from locatable minerals other than  
19 those subject to section 401(b)(1)(A), such as  
20 cathode, anode or copper rod or wire, or other  
21 products fabricated from the locatable minerals,  
22 the gross income from mining derived from the  
23 first commercially marketable product deter-  
24 mined in the same manner as under section 613  
25 of the Internal Revenue Code;

1 (C) in the event that ore, concentrates,  
2 beneficiated or fabricated products or locatable  
3 minerals are used or consumed and are not sold  
4 in an arms length transaction, the reasonable  
5 fair market value of the ore, concentrates,  
6 beneficiated or fabricated products at the mine  
7 or wellhead determined from the first applicable  
8 of the follows:

9 (i) published or other competitive sell-  
10 ing prices of locatable minerals of like kind  
11 and grade;

12 (ii) any proceeds of sale;

13 (iii) value received in exchange for any  
14 thing or service; or

15 (iv) the value of any locatable min-  
16 erals in kind or used or consumed in a  
17 manufacturing process or in providing a  
18 service; and

19 (D) without limiting the foregoing, the  
20 profits or losses incurred in connection with for-  
21 ward sales, futures or commodity options trad-  
22 ing, metal loans, or any other price hedging or  
23 speculative activity or arrangement shall not be  
24 included in Gross Yield.

1           (2) “Net Proceeds” shall mean Gross Yield, less  
2           the following deductions for costs incurred prior to  
3           sale or value determination, and none other:

4                   (A) The actual cost of extracting the  
5           locatable mineral.

6                   (B) The actual cost of transporting the  
7           locatable mineral from the claim to the place or  
8           places of reduction, beneficiation, refining, and  
9           sale.

10                  (C) The actual cost of reduction,  
11           beneficiation, refining, and sale of the locatable  
12           mineral.

13                  (D) The actual cost of marketing and de-  
14           livering the locatable mineral and the conver-  
15           sion of the locatable mineral into money.

16                  (E) The actual cost of maintenance and re-  
17           pairs of—

18                          (i) all machinery, equipment, appara-  
19                          tus, and facilities used in the mine;

20                          (ii) all crushing, milling, leaching, re-  
21                          fining, smelting, and reduction works,  
22                          plants, and facilities; and

23                          (iii) all facilities and equipment for  
24                          transportation;

1           (F) The actual cost for support personnel  
2           and support services at the mine site, including  
3           without limitation, accounting, assaying, draft-  
4           ing and mapping, computer services surveying,  
5           housing, camp, and office expenses, safety, and  
6           security.

7           (G) The actual cost of engineering, sam-  
8           pling, and assaying pertaining to development  
9           and production.

10          (H) The actual cost of permitting, rec-  
11          lamation, environmental compliance and mon-  
12          itoring.

13          (I) The actual cost of fire and other insur-  
14          ance on the machinery, equipment, apparatus,  
15          works, plants, and facilities mentioned in sub-  
16          paragraph (E).

17          (J) Depreciation of the original capitalized  
18          cost of the machinery, equipment, apparatus,  
19          works, plants, and facilities listed in subpara-  
20          graph (E). The annual depreciation charge shall  
21          consist of amortization of the original cost in  
22          the manner consistent with the Internal Reve-  
23          nue Code of 1986, as amended from time to  
24          time. The probable life of the property rep-

1           resented by the original cost must be considered  
2           in computing the depreciation charge.

3           (K) All money expended for premiums for  
4           industrial insurance, and the owner paid cost of  
5           hospital and medical attention and accident  
6           benefits and group insurance for all employees  
7           engaged in the production or processing of  
8           locatable minerals.

9           (L) All money paid as contributions or  
10          payments under State unemployment com-  
11          pensation law, all money paid as contributions  
12          under the Federal Social Security Act, and all  
13          money paid to State government in real prop-  
14          erty taxes and severance or other taxes meas-  
15          ured or levied on production, or Federal excise  
16          tax payments and payments as fees or charges  
17          for use of the Federal lands from which the  
18          locatable minerals are produced.

19          (M) The actual cost of developmental work  
20          in or about the mine or upon a group of mines  
21          when operated as a unit.

22          (c) LIMITATIONS AND ALLOCATIONS OF NET PRO-  
23          CEEDS, GROSS YIELD, AND ALLOWABLE COSTS—

24               (1) The several deductions listed in paragraph

25               (b)(2) are intended to allow a reasonable allowance

1 for overhead: *Provided*, That they do not include any  
2 expenditures for salaries, or any portion of salaries,  
3 of any person not actually engaged in—

4 (A) the working of the mine;

5 (B) the operating of the leach pads, ponds,  
6 plants, mills, smelters, or reduction works;

7 (C) the operating of the facilities or equip-  
8 ment for transportation; or

9 (D) superintending the management of any  
10 of those operations described in subparagraphs  
11 (A)–(C).

12 (2) Ores or solutions of locatable minerals may  
13 be extracted from mines comprised of mining claims  
14 and lands other than mining claims. Ore or solutions  
15 of locatable minerals may be commingled with ores  
16 or solutions from lands other than mining claims:  
17 *Provided*, That the operator shall first sample, weigh  
18 or measure, and assay the same in accordance with  
19 accepted industry standards. In the event of such  
20 production from mines comprised of mining claims  
21 and other lands and/or in the event of commingling  
22 as provided under this paragraph, Gross Yield, al-  
23 lowable costs and Net Proceeds for royalty purposes  
24 shall be allocated in proportion to mineral products

1 recovered from the mining claims in accordance with  
2 accepted industry standards.

3 ((d) LIABILITY FOR ROYALTY PAYMENTS.—The  
4 owner or co-owners of a mining claim subject to the roy-  
5 alty required under this section shall be liable for royalty  
6 due to the United States on locatable minerals produced  
7 and sold during the period of ownership to the extent of  
8 the interest in such claim owned. As used in this sub-  
9 section, “owner” or “co-owner” shall mean the person or  
10 persons owning the right to mine locatable minerals from  
11 such claim and receiving the Net Proceeds of such sale.  
12 Any person who makes any royalty payment attributable  
13 to the interest of the owner or co-owners liable therefor  
14 shall not become liable to the United States for such roy-  
15 alty as a result of making such payment on behalf of such  
16 owner or co-owners.

17 (e) TIME AND MANNER OF PAYMENT.—

18 (1) Royalty payments for production from any  
19 mining claim subject to the royalty required in this  
20 section shall be due to the United States at the end  
21 of the month following the end of the calendar quar-  
22 ter in which the Net Proceeds from the sale of such  
23 production are received by the owner or co-owners.  
24 Royalty payments may be made based upon good  
25 faith estimates of the Gross Yield, Net Proceeds and

1 the quantity of ore, concentrates, or other  
2 beneficiated or fabricated products of locatable min-  
3 erals, subject to adjustment when the actual annual  
4 Gross Yield, Net Proceeds and quantity are deter-  
5 mined by the owner of the mining claim or site or  
6 co-owners.

7 (2) Each royalty payment or adjustment shall  
8 be accompanied by a statement containing—

9 (A) the name and Bureau of Land Man-  
10 agement serial number of the mining claim or  
11 claims from which ores, concentrates, solutions  
12 or beneficiated products of locatable minerals  
13 subject to the royalty required in this section  
14 were produced and sold for the period covered  
15 by such payment or adjustment;

16 (B) the estimated (or actual, if deter-  
17 mined) quantity of such ore, concentrates, solu-  
18 tions or beneficiated or fabricated products pro-  
19 duced and sold from such mining claim or  
20 claims for such period;

21 (C) the estimated (or actual, if deter-  
22 mined) Gross Yield from the production and  
23 sale of such ore, concentrates, solutions or  
24 beneficiated products for such period;

1 (D) the estimated (or actual, if deter-  
2 mined) Net proceeds from the production and  
3 sale of such ores, concentrates, solutions or  
4 beneficiated products for such period, including  
5 an itemization of the applicable deductions de-  
6 scribed in paragraph (b)(2); and

7 (E) the estimated (or actual, if deter-  
8 mined) royalty due to the United States, or ad-  
9 justment due to the United States or such  
10 owner or co-owners, for such period.

11 (3) In lieu of receiving a refund under sub-  
12 section (g), the owner of co-owners may elect to  
13 apply any adjustment due to such owner or co-own-  
14 ers as an offset against royalties due from such  
15 owner or co-owners to the United States under this  
16 Act, regardless of whether such royalties are due for  
17 production and sale from the same mining claim or  
18 claims.

19 (f) RECORDKEEPING AND REPORTING REQUIRE-  
20 MENTS.—

21 (1) An owner, operator, or other person directly  
22 involved in the conduct of mineral activities, trans-  
23 portation, purchase, or sale of locatable minerals,  
24 concentrates, or products derived therefrom, subject  
25 to the royalty required in this section, through the

1 point of royalty computation, shall establish and  
2 maintain any records, make any reports, and provide  
3 any information that the Secretary may reasonably  
4 require for the purposes of implementing this section  
5 or determining compliance with regulations or orders  
6 under this section. Upon the request of the Sec-  
7 retary when conducting an audit or investigation  
8 pursuant to subsection (h), the appropriate records,  
9 reports, or information which may be required by  
10 this section shall be made available for inspection  
11 and duplication by the Secretary.

12 (2) Records required by the Secretary under  
13 this section shall be maintained for three years after  
14 the records are generated unless the Secretary noti-  
15 fies the record holder that he or she has initiated an  
16 audit or investigation specifically identifying and in-  
17 volving such records and that such records must be  
18 maintained for a longer period. When an audit or in-  
19 vestigation is under way, such records shall be main-  
20 tained until the earlier of the date that the Secretary  
21 releases the record holder of the obligation to main-  
22 tain such records or the date that the limitations pe-  
23 riod applicable to such audit or investigation under  
24 subsection (h) expires.

1 (g) INTEREST ASSESSMENTS.—In any case in which  
2 royalty payments are not received by the Secretary on the  
3 date that such payments are due, or when such payments  
4 are less than the amount due, the Secretary shall charge  
5 interest on such late payments computed at the rate pub-  
6 lished by the Department of the Treasury as the “Treas-  
7 ury Current Value of Funds Rate.” In the case of an  
8 underpayment or partial payment, interest shall be com-  
9 puted and charged only on the amount of the deficiency  
10 and not on the total amount, and only for the number  
11 of days such payment is late. No other late payment or  
12 underpayment charge or penalty shall be charged. In any  
13 case in which royalty payments are made in excess of the  
14 amount due, or amounts are held by the Secretary pending  
15 the outcome of any appeal in which the Secretary does  
16 not prevail, the Secretary shall promptly refund such over-  
17 payments or pay such amounts to the person or persons  
18 entitled thereto, together with interest thereon for the  
19 number of days such overpayment or amounts were held  
20 by the Secretary, with the addition of interest charged  
21 against the United States computed at the rate published  
22 by the Department of the Treasury as the “Treasury Cur-  
23 rent Value of Funds Rate.”

24 (h) AUDITS, PAYMENT DEMANDS AND LIMITA-  
25 TIONS.—

1           (1) The Secretary may conduct, after notice,  
2           any audit reasonably necessary and appropriate to  
3           verify the payments required under this section.

4           (2) Any billing or demand letter for royalty due  
5           on locatable minerals produced and sold from any  
6           mining claim subject to royalty required by this sec-  
7           tion must be sent or issued not later than three  
8           years after the date such royalty was due and must  
9           specifically identify the production involved, the roy-  
10          alty allegedly due and the basis for the claim. No ac-  
11          tion, proceeding or claim for royalty due on locatable  
12          minerals produced and sold, or relating to such pro-  
13          duction, may be brought by the United States, in-  
14          cluding but not limited to any claim for additional  
15          royalties or claim of the right to offset the amount  
16          of such additional royalties against amounts owed to  
17          any person by the United States, unless judicial suit  
18          or administrative proceedings are commenced to re-  
19          cover specific amounts claimed to be due prior to the  
20          expiration of three years from the date such royalty  
21          is alleged to have been due.

22          (i) TRANSITIONAL RULES.—Any mining claim for  
23          which a patent is issued pursuant to subsection 204(b)  
24          shall not be subject to the obligation to pay the royalty  
25          pursuant to this section. Royalty payments for any claim

1 processed under subsection 204(b) shall be suspended  
2 pending final determination of the right to patent. For  
3 any claim that does not qualify for the issuance of a patent  
4 under subsection 204(b), royalties shall be payable under  
5 this section on—

6 (1) previous production between the date of en-  
7 actment of this Act and the date of such final deci-  
8 sion denying the issuance of a patent, plus interest  
9 computed at the rate published by the Department  
10 of the Treasury as the “Treasury Current Value of  
11 Funds Rate”; and

12 (2) production subsequent to the date of such  
13 decision.

14 (j) DISBURSEMENT OF REVENUES.—The receipts  
15 from royalties collected under this section shall be dis-  
16 bursed as follows:

17 (1) One-third of such receipts shall be paid onto  
18 the Treasury of the United States and deposited as  
19 miscellaneous receipts.

20 (2) One-third of such receipts shall be paid by  
21 the Secretary of the Treasury to the State in which  
22 the mining claim from which production occurred is  
23 located.

24 (3) One-third of such receipts shall be paid into  
25 a State Fund or the Federal Fund in accordance

1 with Title V; until termination as provided in section  
2 506.

3 (k) NO IMPLIED COVENANTS.—The owner of a min-  
4 ing claim subject to the provisions of this title shall have  
5 no obligation, express or implied, to explore for, develop,  
6 produce or market locatable minerals as a result of the  
7 obligation to pay royalty hereunder, and the timing, na-  
8 ture, extent and manner of exploring, developing, mining  
9 and marketing such locatable minerals shall be in the sole  
10 discretion of the claim owner.

11 **TITLE V—ABANDONED LOCATABLE MIN-**  
12 **ERALS MINE RECLAMATION PROGRAM**

13 **SEC. 501. ABANDONED LOCATABLE MINERALS MINE REC-**  
14 **LAMATION FUND.**

15 (a) STATE FUND.—Any State within which proceeds  
16 are collected pursuant to title IV from a mining claim and  
17 which wishes to become eligible to receive such proceeds  
18 allocated by paragraph 401(j)(3) shall establish and main-  
19 tain an interest-bearing abandoned locatable mineral mine  
20 reclamation fund (hereinafter referred to in this Title as  
21 “State Fund”) to accomplish the purposes of this title.

22 (b) FEDERAL FUND.—There is established on the  
23 books of the Treasury of the United States an interest-  
24 bearing fund to be known as the Abandoned Locatable  
25 Minerals Mine Reclamation Fund (hereinafter referred to

1 in this title as “Federal Fund”) which shall consist of pro-  
2 ceeds allocated by paragraph 401(j)(3) from mining  
3 claims in a State where a State Fund has not been estab-  
4 lished or maintained under subsection (a).

5 **SEC. 502. ALLOCATION AND PAYMENTS.**

6 (a) STATE FUND.—Proceeds collected pursuant to  
7 title IV and allocated by paragraph 401(j)(3) shall be paid  
8 by the Secretary of the Treasury to the State Fund estab-  
9 lished pursuant to subsection 501(a) for the State where  
10 the mining claim from which the production occurred is  
11 located. Payments to States under this subsection with re-  
12 spect to any moneys received by the United States, shall  
13 be made not later than the last business day of the month  
14 in which such moneys are warranted by the United States  
15 Treasury to the Secretary of the Interior as having been  
16 received, except for any portion of such moneys which is  
17 under challenge, which shall be placed in a suspense ac-  
18 count pending resolution of such challenge. Such warrants  
19 shall be issued by the United States Treasury not later  
20 than ten days after receipt of such moneys by the Treas-  
21 ury. Moneys placed in a suspense account which are deter-  
22 mined to be due the United States shall be payable to a  
23 State Fund not later than fifteen days after such challenge  
24 is resolved. Any such amount placed in a suspense account  
25 pending resolution shall bear interest until the challenge

1 is resolved. In determining the amount of payments to  
2 State Funds under this section, the amount of such pay-  
3 ments shall not be reduced by any administrative or other  
4 costs incurred by the United States.

5 (b) FEDERAL FUND.—Proceeds collected pursuant to  
6 title IV, and allocated by paragraph 401(j)(3), from min-  
7 ing claims located in a State which has not established  
8 or maintained a State Fund, and such proceeds from min-  
9 ing claims located in a State for which the Secretary's au-  
10 thority has expired under subsection 506(a), shall be cred-  
11 ited to the Federal Fund and distributed in accordance  
12 with subsection (c).

13 (c) TRANSITION.—Prior to the time a State estab-  
14 lishes a State Fund pursuant to subsection 501(a), any  
15 proceeds collected from a mining claim within such State  
16 shall be deposited into the Federal Fund and allocated to  
17 such State. Once a State establishes a State Fund under  
18 subsection 501(a), the State allocation in the Federal  
19 Fund with accrued interest shall be paid by the Secretary  
20 of the Treasury to the State Fund in accordance with sub-  
21 section (a). Commencing three years after the date of en-  
22 actment of this Act, the Secretary of the Treasury shall  
23 distribute proceeds then accrued or which are thereafter  
24 credited to the Federal Fund equally among all States  
25 which maintain a State Fund established under subsection

1 501(a), and for which the Secretary of the Treasury's au-  
2 thority has not expired under subsection 506(a).

3 **SEC. 503. ELIGIBLE AREA.**

4 (a) IN GENERAL.—Subject to subsection (b), lands  
5 and water eligible for reclamation under this title shall be  
6 Federal lands that—

7 (1) have been adversely affected by past min-  
8 eral activities on lands abandoned and left inad-  
9 equately reclaimed prior to the date of enactment of  
10 this Act; and

11 (2) for which the State determines there is no  
12 identifiable party with a continuing reclamation re-  
13 sponsibility under State or Federal laws.

14 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—  
15 The following areas shall not be eligible for expenditures  
16 from a State Fund:

17 (1) Any area subject to a plan of operations  
18 submitted or approved prior to, on or after the date  
19 of enactment of this Act which includes remining or  
20 reclamation of the area adversely affected by past  
21 locatable mineral activities.

22 (2) Any area affected by coal mining eligible for  
23 reclamation expenditures pursuant to section 404 of  
24 the Surface Mining Control and Reclamation Act  
25 (30 U.S.C. 1234);

1           (3) Any area designated for remedial action  
2           pursuant to the Uranium Mill Tailings Radiation  
3           Control Act of 1978 (42 U.S.C. 7912).

4           (4) Any area that was listed on the National  
5           Priorities List pursuant to the Comprehensive Envi-  
6           ronmental Response, Compensation and Liability  
7           Act of 1980 (42 U.S.C. 9605) prior to the date of  
8           enactment of this Act, or where the Environmental  
9           Protection Agency has initiated or caused to be initi-  
10          ated a response action pursuant to that Act.

11 **SEC. 504. USES AND OBJECTIVES OF FUNDS.**

12          (a) USE OF FUNDS.—Moneys in a State Fund shall  
13          be used for the reclamation of eligible areas. For purposes  
14          of this section, reclamation includes—

15               (1) backfilling, fencing, sealing, or otherwise  
16               controlling abandoned underground mine entries to  
17               protect public health and safety;

18               (2) abatement, treatment or control of water  
19               pollution;

20               (3) shaping, grading, contouring and  
21               revegetation of land to prevent erosion and sedi-  
22               mentation, or to enhance fish and wildlife habitat;

23               (4) removal or control of toxic or hazardous  
24               materials;

1 (5) analysis, curation and preservation of struc-  
2 tures, buildings, sites or objects listed or eligible for  
3 listing pursuant to the National Historic Preserva-  
4 tion Act (16 U.S.C. 470a); and

5 (6) control or reclamation of surface subsidence  
6 due to abandoned underground mines.

7 (b) PRIORITIES.—Expenditures of moneys from a  
8 State Fund shall reflect the following priorities in the  
9 order stated, but shall not preclude, where feasible and  
10 appropriate, a combination of these priorities for cost-ef-  
11 fective reclamation:

12 (1) The protection of public health, safety, gen-  
13 eral welfare and property from extreme danger from  
14 the adverse effects of past mineral activities.

15 (2) The protection of public health, safety, and  
16 general welfare from the adverse effects of past min-  
17 eral activities.

18 (c) LIABILITY.—No State, or a contractor for such  
19 State engaged in approved reclamation work under this  
20 title, or any other entity authorized by a State to conduct  
21 approved reclamation activities, shall be liable under any  
22 provision of Federal law for any costs or damages as a  
23 result of action taken or omitted in the course of carrying  
24 out reclamation pursuant to this section. This subsection  
25 shall not preclude liability for costs and damages as result

1 of gross negligence or intentional misconduct. For pur-  
2 poses of the preceding sentence, reckless, willful or wanton  
3 misconduct shall constitute gross negligence.

4 **SEC. 505. REPORT TO CONGRESS.**

5 Each year, each State with a State Fund under sub-  
6 section 501(a) shall submit a report to the Congress pro-  
7 viding an accounting of the Fund, including identifying  
8 sites for which moneys in the Fund have been spent dur-  
9 ing the preceding year and sites for which moneys shall  
10 be allocated in the following year, the amounts spent or  
11 expected to be spent on each such site, and an estimate  
12 of the number of eligible areas that remain to be reclaimed  
13 in the State.

14 **SEC. 506. SUNSET PROVISIONS.**

15 (a) TERMINATION OF AUTHORITY.—The Secretary of  
16 the Treasury's authority to allocate funds to a State Fund  
17 under section 502 shall expire on the date that the State  
18 submits an annual report to the Congress pursuant to sec-  
19 tion 505 which reports that there are no areas in the State  
20 which remain to be reclaimed.

21 (b) TERMINATION OF FUND.—Upon the termination  
22 of authority as provided in subsection (a) with respect to  
23 all State Funds, the Federal Fund shall also be termi-  
24 nated, and all proceeds thereafter remaining in the Fed-

1 eral Fund shall be paid into the Treasury of the United  
2 States and deposited as miscellaneous receipts.

### 3 **TITLE VI—ADMINISTRATIVE PROVISIONS**

#### 4 **SEC. 601. EFFECTIVE DATE.**

5 The provisions of this Act shall take effect on the  
6 date of enactment of this Act, except as otherwise provided  
7 in this Act.

#### 8 **SEC. 602. EFFECT ON FEDERAL AND STATE LAWS.**

9 (a) EFFECT ON THE GENERAL MINING LAWS.—The  
10 provisions of this Act shall supersede the general mining  
11 laws only to the extent such laws conflict with the require-  
12 ments of this Act. Where no such conflict exists, the gen-  
13 eral mining laws, including all judicial and administrative  
14 decisions interpreting them, shall remain in full force and  
15 effect.

16 (b) EFFECT ON OTHER FEDERAL AND STATE  
17 LAWS.—Except as provided in subsection (a), nothing in  
18 this Act shall be construed—

19 (1) as superseding, modifying, amending or re-  
20 pealing any other provision of Federal law, State law  
21 or Federal or State regulation enacted pursuant  
22 thereto, not expressly superseded, modified, amended  
23 or repealed;

24 (2) without limiting the foregoing, as affecting  
25 or intended to affect or in any way interfere with or

1 modify the laws of the States relating to the owner-  
2 ship, control, appropriation, use and distribution of  
3 ground or surface waters or the regulation by States  
4 of surface or ground water quality; and

5 (3) as affecting or modifying in any way the  
6 rights, obligations or liabilities of any person under  
7 other provision of law.

8 **SEC. 604. SEVERABILITY.**

9 If any provision of this Act or the applicability there-  
10 of to any person or circumstances is held invalid, the re-  
11 mainder of this Act and the application of such provision  
12 to other persons or circumstances shall not be affected  
13 thereby.

○

S 506 IS—2

S 506 IS—3

S 506 IS—4