

GUTIERREZ, Mr. KOPETSKI, Mr. MARKEY, Mr. NEAL of North Carolina, Mr. PASTOR, Mr. SABO, Mr. TORRICELLI, Mr. TORRES, and Mr. VENTO.

H.R. 3076: Mr. ENGEL.

H.R. 3088: Mr. ALLARD and Mr. ENGEL.

H.R. 3098: Mr. BATEMAN and Mr. LEVIN.

H.R. 3109: Mr. BARCIA of Michigan.

H.R. 3121: Mr. FISH.

H.R. 3136: Mr. SCHUMER and Mr. WATT.

H.R. 3158: Mr. HINCHEY.

H.R. 3222: Mr. REGULA.

H.R. 3236: Mr. FAWELL, Mr. BARRETT of Wisconsin, Mr. HINCHEY, Mr. MINGE, and Mr. SANDERS.

H.R. 3301: Mr. PETERSON of Minnesota.

H.R. 3328: Mr. ANDREWS of Texas, Mr. COMBEST, Mr. GILMAN, and Ms. LAMBERT.

H.R. 3365: Mr. BACCHUS of Florida, Mr. COLEMAN, Ms. NORTON, and Mr. MCHALE.

H.R. 3372: Mr. ENGEL, Mr. KNOLLENBERG, Mr. KASICH, Mr. CRAMER, Mr. GENE GREEN of Texas, Mr. DELLUMS, Mr. DIXON, Ms. BYRNE, Mr. MAZZOLI, Mr. KOPETSKI, Mr. FOGLIETTA, Mr. RUSH, Mr. SKELTON, Mr. MATSUI, Mr. MCNULTY, Mr. GONZALEZ, Mr. JOHNSON of Georgia, Mr. THORNTON, Mr. SMITH of New Jersey, Mr. STUMP, Mr. NEAL of Massachusetts, and Mr. WILSON.

H.R. 3386: Mr. POSHARD, Mr. BALLENGER, Mr. SUNDQUIST, Mr. KASICH, Mr. EVERETT, and Mr. BEREUTER.

H.R. 3421: Ms. DUNN.

H.R. 3424: Mr. PETE GEREN of Texas, Mr. CASTLE, Mr. EDDIE BERNICE JOHNSON of Texas, Mr. WALSH, Ms. LAMBERT, Mr. FROST, and Mr. SWETT.

H.J. Res. 28: Ms. SHEPHERD.

H.J. Res. 90: Mr. HUTTO, Mr. MINETA, and Mr. RAVENEL.

H.J. Res. 117: Mr. BILBRAY.

H.J. Res. 139: Mr. CALVERT, Mr. VISCLOSKEY, Mr. WOLF, Mr. HILLIARD, Mr. BORSKI, Mr. MFUME, Mr. BAESLER, Mr. HOEKSTRA, Mr. UPTON, Mr. OLVER, Mr. EMERSON, Mr. FOGLIETTA, Mr. MCDERMOTT, Mrs. KENNELLY, Mrs. JOHNSON of Connecticut, Mr. DIXON, Mr. MOAKLEY, Mr. COPPERSMITH, Mr. KENNEDY, Mr. FRANK of Massachusetts, Mr. BLUTE, Mr. STENHOLM, Mr. BARCIA of Michigan, Mr. CONYERS, Mr. TORKILDSEN, and Mr. CASTLE.

H.J. Res. 145: Mr. BURTON of Indiana, Mr. UPTON, Mr. OXLEY, Mr. HANCOCK, Mr. BARTON of Texas, Mr. HERGER of California, and Mr. WELDON.

H.J. Res. 158: Mr. HUNTER.

H.J. Res. 159: Mr. SMITH of Oregon, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.J. Res. 165: Mr. WOLF, Ms. KAPTUR, Mr. REED, Mr. BACHUS of Alabama, and Mr. SAWYER.

H.J. Res. 175: Mr. ANDREWS of New Jersey, Mr. BACCHUS of Florida, Mr. BURTON of Indiana, Mr. GENE GREEN of Texas, Mr. LAUGHLIN, Mr. MCDERMOTT, Mr. OBEY, Mr. PAXON, and Mr. SOLOMON.

H.J. Res. 216: Mr. STEARNS.

H.J. Res. 224: Mr. CLAY.

H.J. Res. 241: Mr. FINGERHUT.

H.J. Res. 247: Mr. PAYNE of Virginia, Mr. FILNER, and Mrs. UNSOELD.

H.J. Res. 257: Mr. OXLEY, Mr. VALENTINE, Mr. HOCHBRUECKNER, Mr. MCCOLLUM, Mr. GALLEGLY, Mr. LANTOS, Mr. LEVY, Mr. WALSH, Mr. MEEHAN, Mr. JACOBS, Mr. MCCREERY, Mr. HEFLEY, and Mr. JEFFERSON.

H.J. Res. 272: Mr. COLEMAN, Mr. DARDEN, Mr. VISCLOSKEY, Mr. DICKS, Mr. STOKES, Mr. MYERS of Indiana, Mr. CARR, Ms. LOWEY, Mr. MFUME, Mr. YATES, Mr. THORNTON, Mr. MOLLOHAN, Mr. HINCHEY, Mr. GUNDERSON, Mr. PAYNE of Virginia, Mr. KLINK, Mr. BROWDER, Mr. HILLIARD, Ms. ESHOO, Mr. HOLDEN, Mr. BROOKS, Mr. SAWYER, Mr. REYNOLDS, Mr. MATSUI, Mr. GEJDENSON, Mr. SHARP, Mr. KOPETSKI, Mrs. LLOYD, Mr. HAYES, Mr. OBERSTAR, Mr. HOAGLAND, Mr. SKELTON, Mr. OWENS, Mr. TORRICELLI, Mr. ENGEL, Mr. SPRATT, Mr. STENHOLM, and Mr. GENE GREEN of Texas.

H.J. Res. 282: Mr. EWING, Mr. SOLOMON, Mr. LEVY, and Ms. PRYCE of Ohio.

H. Con. Res. 107: Mr. BARRETT of Nebraska and Mr. FLAKE.

H. Con. Res. 110: Mr. BOEHLERT and Mr. SCHIFF.

H. Con. Res. 124: Mr. GUNDERSON, Mr. JOHNSON of South Dakota, and Mr. WILLIAMS.

H. Con. Res. 127: Mr. MCDADE, Mr. COYNE, Mr. MURPHY, and Mr. GEKAS.

H. Con. Res. 138: Ms. MARGOLIES-MEZVINSKY, Mr. MANTON, Mr. BEILSON, Mr. COOPER, Mr. FOGLIETTA, Mr. LEVY, Mr. ENGEL, Ms. SLAUGHTER, Ms. LOWEY, Mr. COPPERSMITH, and Mr. NADLER.

H. Con. Res. 141: Mr. MCINNIS, Mr. KASICH, Mr. ENGEL, Mr. CALVERT, and Mr. TALENT.

H. Res. 117: Mr. JACOBS.

H. Res. 234: Mr. TALENT, Ms. SHEPHERD, Mr. LANCASTER, Mr. ROBERTS, Mr. BROWDER, Mr. FORD of Michigan, and Mr. HOBSON.

#### THURSDAY, NOVEMBER 18, 1993 (136)

The House was called to order by the SPEAKER.

##### ¶136.1 APPROVAL OF THE JOURNAL

The SPEAKER announced he had examined and approved the Journal of the proceedings of Wednesday, November 17, 1993.

Pursuant to clause 1, rule I, the Journal was approved.

##### ¶136.2 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

2169. A letter from the Acting Administrator, Farmers Home Administration, transmitting the FmHA Housing Demonstration Program for fiscal year 1993; to the Committee on Banking, Finance and Urban Affairs.

2170. A letter from the Interim CEO, Resolution Trust Corporation, transmitting the semiannual report on the Affordable Housing Disposition Program which covers the reporting period defined as January 1, 1993, through June 30, 1993, pursuant to Public Law 102-233, section 616 (105 Stat. 1787); to the Committee on Banking, Finance and Urban Affairs.

2171. A letter from the Executive Director, Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting the fiscal year 1993 annual report as required by the Inspector General Act Amendments of 1988, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2172. A letter from the Acting Chief, U.S. Forest Service, transmitting the boundary descriptions for the Little Missouri River and the Cossatot River within the Ouachita National Forest in the State of Arkansas, pursuant to 16 U.S.C. 1271-1287; to the Committee on Natural Resources.

2173. A letter from the Assistant Secretary for Legislative Affairs, Department of State; transmitting a draft of proposed legislation entitled "Antarctic Environmental Protection Act of 1993"; jointly, to the Committees on Merchant Marine and Fisheries; Science, Space, and Technology; Foreign Affairs; Natural Resources; the Judiciary; and Energy and Commerce.

##### ¶136.3 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3341. An Act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 433) entitled "An Act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes."

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2401), "An Act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 986. An Act to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes;

S. 1667. An Act to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months; and

S. Con. Res. 31. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

##### ¶136.4 MINERAL EXPLORATION AND DEVELOPMENT

The SPEAKER pro tempore, Mr. TORRES, pursuant to House Resolution 303 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 322) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

Mrs. KENNELLY, Chairman, assumed the chair; and after some time spent therein,

The SPEAKER pro tempore, Mr. TORRES, assumed the Chair.

When Mrs. KENNELLY, Chairman, pursuant to House Resolution 303, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Mineral Exploration and Development Act of 1993".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Definitions and references.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 101. Lands open to location.
- Sec. 102. Rights under this act.
- Sec. 103. Location of mining claims.
- Sec. 104. Conversion of existing claims.
- Sec. 105. Claim maintenance requirements.
- Sec. 106. Failure to comply.
- Sec. 107. Basis for contest.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 201. Surface management standard.
- Sec. 202. Permits.
- Sec. 203. Exploration permits.
- Sec. 204. Operations permit.
- Sec. 205. Persons ineligible for permits.
- Sec. 206. Financial assurance.
- Sec. 207. Reclamation.
- Sec. 208. State law and regulation.
- Sec. 209. Unsuitability review.
- Sec. 210. Certain mineral activities covered by other law.

TITLE III—ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND

- Sec. 301. Abandoned locatable minerals mine reclamation.
- Sec. 302. Use and objectives of the fund.
- Sec. 303. Eligible lands and waters.
- Sec. 304. Fund expenditures.
- Sec. 305. Authorization of appropriations.
- Sec. 306. Royalty.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SUBTITLE A—ADMINISTRATIVE PROVISIONS

- Sec. 401. Policy functions.
- Sec. 402. User fees.
- Sec. 403. Public participation requirements.
- Sec. 404. Inspection and monitoring.
- Sec. 405. Citizens suits.
- Sec. 406. Administrative and judicial review.
- Sec. 407. Enforcement.
- Sec. 408. Regulations; effective dates.

SUBTITLE B—MISCELLANEOUS PROVISIONS

- Sec. 411. Transitional rules; surface management requirements.
- Sec. 412. Claims subject to special rules.
- Sec. 413. Purchasing power adjustment.
- Sec. 414. Savings clause.
- Sec. 415. Availability of public records.
- Sec. 416. Miscellaneous powers.
- Sec. 417. Limitation on patent issuance.
- Sec. 418. Multiple mineral development and surface resources.
- Sec. 419. Mineral materials.
- Sec. 420. Application of Act to beneficiation and processing of non-Federal minerals on Federal lands.
- Sec. 421. Compliance with Buy American Act.
- Sec. 422. Sense of Congress.
- Sec. 423. Prohibition of contract.
- Sec. 424. Severability.
- Sec. 425. Award of Compensation for takings from Fund.
- Sec. 426. Report to Congress on mining claims in the United States held by foreign firms.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) The general mining laws, commonly referred to as the Mining Law of 1872, at one time promoted the development of the West and provided a framework for the exploitation of Federal mineral resources.

(2) Congress recognized that the public interest was no longer being advanced under the Mining Law of 1872 when, in 1920, it removed energy minerals and minerals chiefly valuable for agricultural use, and in 1955, removed common varieties of mineral materials, from the scope of the general mining laws and made such minerals available under regimes which provide for a financial return to the public for the disposition of such min-

erals and which better safeguard the environment.

(3) The Mining Law of 1872 no longer fosters the efficient and diligent development of those mineral resources still under its scope, giving rise to speculation and nonmining uses of lands chiefly valuable for minerals.

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

(5) The Mining Law of 1872 continues to transfer lands valuable for mineral resources from the public domain to private ownership for less than the fair market value of such lands and mineral resources.

(6) There are a substantial number of acres of land throughout the Nation disturbed by mining activities conducted under the Mining Law of 1872 on which little or no reclamation was conducted, and the impacts from these unreclaimed lands pose a threat to the public health, safety, and general welfare and to environmental quality.

(7) Activities under the Mining Law of 1872 continue to result in disturbances of surface areas and water resources which burden and adversely affect the public welfare by destroying or diminishing the utility of public domain lands for other appropriate uses and by creating hazards dangerous to the public health and safety and to the environment.

(8) Existing Federal law and regulations, as well as applicable State laws, have proven to be inadequate to ensure that active mining operations under the Mining Law of 1872 will not leave to future generations a new legacy of hazards associated with unreclaimed mined lands.

(9) The public interest is no longer being served by archaic features of the Mining Law of 1872 that thwart the efficient exploration and development of those minerals which remain under its scope and which conflict with modern public land use management philosophies.

(10) The public is justified in expecting the diligent development of its mineral resources, a financial return for the use of public domain lands for mineral activities as well as for the disposition of valuable mineral resources from such lands.

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

(12) Mining and reclamation technology is now developed so that effective and reasonable regulation of operations by the Federal Government in accordance with this Act is an appropriate and necessary means to minimize so far as practicable the adverse social, economic and environmental effects of such mining operations.

(13) Mining activities on public domain lands affect interstate commerce, contribute to the economic well-being, security and general welfare of the Nation and should be conducted in an environmentally sound manner.

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

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

(16) Many of the deposits of hardrock minerals remain to be discovered on the Federal public domain.

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

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

(19) The domestic mining industry provides thousands of jobs directly and indirectly to the domestic economy and those jobs must be preserved and encouraged by a sound Federal policy regarding mining on Federal lands.

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

(1) to devise a more socially, fiscally and environmentally responsible regime to govern the use of public domain lands for the exploration and development of those minerals not subject to mineral leasing acts or mineral materials statutes;

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

(3) to foster the diligent development of mineral resources on public domain lands in a manner that is compatible with other resource values and environmental quality;

(4) to promote the restoration of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent the beneficial use of land or water resources, and endanger the health and safety of the public;

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

(6) to, whenever necessary, exercise the full reach of Federal constitutional powers to ensure the protection of the public interest through the effective control of mineral exploration and development activities.

SEC. 3. DEFINITIONS AND REFERENCES.

(a) DEFINITIONS.—As used in this Act:

(1) The term "affiliate" means with respect to any person, any of the following:

(A) Any person who controls, is controlled by, or is under common control with such person.

(B) Any partner of such person.

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

(2) The term "applicant" means any person applying for a permit under this Act or a modification to or a renewal of a permit under this Act.

(3) The term "beneficiation" means the crushing and grinding of locatable mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(4) The term "claim holder" means a person holding a mining claim located or converted under this Act. Such term may include an agent of a claim holder.

(5) The term "control" means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity's real or financial assets, position as a director, officer, or partner of the entity, or contractual arrangement. The Secretary and the Secretary of Agriculture shall jointly promulgate such rules as may be necessary under this paragraph.

(6) The term "exploration" means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade

and value not associated with mining, beneficiation, processing or marketing of minerals.

(7) The term "Indian lands" means lands held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(8) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "land use plans" means those plans required under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or the land management plans for National Forest System units required under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), whichever is applicable.

(10) The term "legal subdivisions" means an aliquot quarter quarter section of land as established by the official records of the public land survey system, or a single lot as established by the official records of the public land survey system if the pertinent section is irregular and contains fractional lots, as the case may be.

(11)(A) The term "locatable mineral" means any mineral, the legal and beneficial title to which remains in the United States and which is not subject to disposition under any of the following:

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

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

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

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

(B) The term "locatable mineral" does not include any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States.

(12) The term "mineral activities" means any activity on Federal lands for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any locatable mineral.

(13) The term "mining" means the processes employed for the extraction of a locatable mineral from the earth.

(14) The term "mining claim" means a claim for the purposes of mineral activities.

(15) The term "National Conservation System unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or a National Conservation Area, National Recreation Area, a National Forest Monument or any unit of the National Wilderness Preservation System.

(16) The term "operator" means any person, conducting mineral activities subject to this Act or any agent of such a person.

(17) The term "person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other organization and any instrumentality of State or local government including any publicly owned utility or publicly owned corporation of State or local government.

(18) The term "processing" means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to, smelting and electrolytic refining.

(19) The term "Secretary" means the Secretary of the Interior, unless otherwise specified.

(20) The term "surface management requirements" means the requirements and standards of title II, and such other standards as are established by the Secretary governing mineral activities pursuant to this Act.

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

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

#### TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

##### SEC. 101. LANDS OPEN TO LOCATION.

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

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

(2) such lands and interests are opened to the location of mining claims after the date of enactment of this Act by reason of any administrative action or statute.

(b) LANDS NOT OPEN TO LOCATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to valid existing rights, each of the following shall not be open to the location of mining claims under this Act on or after the date of enactment of this Act:

(A) Lands recommended for wilderness designation by the agency managing the surface, pending a final determination by the Congress of the status of such recommended lands.

(B) Lands being managed by the Secretary, acting through Bureau of Land Management, as wilderness study areas on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(C)(i) Lands under study for inclusion in the National Wild and Scenic River System pursuant to section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), pending a final determination by the Congress of the status of such lands, and (ii) lands determined by a Federal agency under section 5(d) of such Act to be eligible for inclusion in such system, pending a final determination by the Congress of the status of such lands.

(D) Lands withdrawn from mineral activities under authority of other law.

(2) DEFINITION.—(A) As used in this subsection, the term "valid existing rights" refers to a mining claim located on lands described in paragraph (1) of subsection (a) that—

(i) was properly located and maintained under this Act prior to and on the applicable date, or

(ii) was properly located and maintained under the general mining laws prior to the applicable date, and

(I) was supported by a discovery of a valuable mineral deposit within the meaning of

the general mining laws on the applicable date, and

(II) continues to be valid under this Act.

(B) As used in this paragraph, the term "applicable date" means one of the following:

(i) In the case of lands described in paragraph (1)(A), such term means the date of the recommendation referred to in paragraph (1)(A) if such recommendation is made on or after the enactment of this Act.

(ii) In the case of lands described in paragraph (1)(A), if the recommendation referred to in paragraph (1)(A) was made before the enactment of this Act, such term means the earlier of (I) the date of enactment of this Act or (II) the date of any withdrawal of such lands from mineral activities.

(iii) For lands described in paragraph (1)(B), such term means the date of the enactment of this Act.

(iv) For lands referred to in paragraph (1)(C)(i), such term means the date of the enactment of the amendment to the Wild and Scenic Rivers Act listing the river segment for study and for lands referred to in paragraph (1)(C)(ii), such term means the date of the eligibility determination.

(v) For lands referred to in paragraph (1)(D), such term means the date of the withdrawal.

##### SEC. 102. RIGHTS UNDER THIS ACT.

The holder of a mining claim located or converted under this Act and maintained in compliance with this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under this Act and other applicable Federal law. Such rights of the claim holder shall terminate upon completion of mineral activities of lands to the satisfaction of the Secretary. In cases where an area is determined unsuitable under section 209, holders of claims converted or located under this Act shall be entitled to receive a refund of claim maintenance fees.

##### SEC. 103. LOCATION OF MINING CLAIMS.

(a) GENERAL RULE.—A person may locate a mining claim covering lands open to the location of mining claims by posting a notice of location, containing the person's name and address, the time of location (which shall be the date and hour of location and posting), and a legal description of the claim. The notice of location shall be posted on a suitable, durable monument erected as near as practicable to the northeast corner of the mining claim. No person who is not a citizen of the United States, or a corporation organized under the laws of the United States or of any State or the District of Columbia may locate or hold a claim under this Act. On or after the enactment of this Act, a mining claim for a locatable mineral on lands open to location—

(1) may be located only in accordance with this Act.

(2) may be maintained only as provided in this Act, and

(3) shall be subject to the requirements of this Act.

(b) USE OF PUBLIC LAND SURVEY.—Except as provided in subsection (c), each mining claim located under this Act shall (1) be located in accordance with the public land survey system, and (2) conform to the legal subdivisions thereof. Except as provided in subsection (c)(1), the legal description of the mining claim shall be based on the public land survey system and its legal subdivisions.

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

(A) The legal description of the mining claim shall be based on the protracted survey and the mining claim shall be located as near as practicable in conformance with a protracted legal subdivision.

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

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

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

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

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

(C) The legal description of the mining claim shall be expressed in metes and bounds and shall be defined by and referenced to the closest existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent and conspicuous natural object. Such description shall be of sufficient accuracy and completeness to permit recording of the claim upon the public land records and to permit the claim to be readily found upon the ground.

(3) In the case of a conflict between the boundaries of a mining claim as monumented on the ground and the description of such claim in the notice of location referred to in subsection (a), the notice of location shall be determinative, except where determined otherwise by the Secretary.

(d) FILING WITH SECRETARY.—(1) Within 30 days after the location of a mining claim pursuant to this section, a copy of the notice of location referred to in subsection (a) shall be filed with the Secretary in an office designated by the Secretary.

(2)(A) Whenever the Secretary receives a copy of a notice of location of a mining claim under this Act, the Secretary shall assign a serial number to the mining claim, and immediately return a copy of the notice of location to the locator of the claim, together with a certificate setting forth the serial number, a description of the claim, and the claim maintenance requirements of section 105. The Secretary shall enter the claim on the public land records.

(B) Return of the copy of the notice of location and provision of the certificate under subparagraph (A) shall not constitute a determination by the Secretary that a claim is valid. Failure by the Secretary to provide such copy and certificate shall not constitute a defense against cancellation of a claim for failure to follow applicable requirements of this Act.

(3) Notwithstanding any other provision of law, for every unpatented mining claim located after the date of enactment of this Act, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay a location fee of \$25.00 per claim. The location fee shall be in addition to the claim maintenance fee payable under section 105.

(4) Subsections (b) and (c) of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)) are repealed.

(e) CONVERTED CLAIMS.—For mining claims and mill sites deemed converted under this Act, for the purposes of complying with the requirements of subsection (d), upon receipt of the initial claim maintenance fee required under section 105, the Secretary shall issue a certificate referenced in subsection (d)(2) to the holder of the mining claim or mill site.

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

(g) LANDS COVERED BY CLAIM.—A mining claim located or converted under this Act shall include all lands and interests in lands open to location within the boundaries of the claim, subject to any prior mining claim located or converted under this Act.

(h) CONFLICTING LOCATIONS.—Any conflicts between the holders of mining claims located or converted under this Act relating to relative superiority under the provisions of this Act may be resolved in adjudication proceedings in a court with proper jurisdiction, including, as appropriate, State courts. It shall be incumbent upon the holder of a mining claim asserting superior rights in such proceedings to demonstrate that such person was the senior locator, or if such person is the junior locator, that prior to the location of the claim by such locator—

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

(2) the amount of claim maintenance fee paid by the senior locator at the time of filing the location notice referred to in subsection (d) was less than the amount required to be paid by such locator.

(i) EXTENT OF MINERAL DEPOSIT.—The boundaries of a mining claim located under this Act shall extend vertically downward.

#### SEC. 104. CONVERSION OF EXISTING CLAIMS.

(a) EXISTING CLAIMS.—Notwithstanding any other provision of law, on the effective date of this Act any unpatented mining claim for a locatable mineral located under the general mining laws prior to the date of enactment of this Act shall become subject to this Act's provisions and shall be deemed a converted mining claim under this Act. Nothing in this Act shall be construed to affect extralateral rights in any valid lode mining claim existing on the date of enactment of this Act. After the effective date of this Act, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(b) MILL AND TUNNEL SITES.—On the effective date of this Act, any unpatented mill or tunnel site located under the general mining laws before the date of enactment of this Act shall become subject to this Act's provisions and shall be deemed a converted mining claim under this Act.

(c) POSTCONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(g) when converted pursuant to subsection (a) or (b).

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

(e) CONFLICTS.—(1) Any conflicts in existence before the effective date of this Act between holders of mining claims, mill sites and tunnel sites located under the general mining laws shall be subject to, and shall be resolved in accordance with, applicable laws governing such conflicts in effect before the effective date of enactment of this Act in a court of proper jurisdiction.

(2) Any conflicts not relating to matters provided for under section 103(h) between the holders of a mining claim located under this Act and a mining claim, mill, or tunnel site located under the general mining laws arising either before or after the conversion of any such claim or site under this section

shall be resolved in a court with proper jurisdiction.

#### SEC. 105. CLAIM MAINTENANCE REQUIREMENTS.

(a) IN GENERAL.—(1) The holder of each mining claim converted pursuant to this Act shall pay to the Secretary an annual claim maintenance fee of \$100 per claim.

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

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

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

(d) CLAIM MAINTENANCE FEES PAYABLE UNDER 1993 ACT.—The claim maintenance fees payable under this section for any period with respect to any claim shall be reduced by the amount of the claim maintenance fees paid under section 10101 of the Omnibus Budget Reconciliation Act of 1993 with respect to that claim and with respect to the same period.

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

(2) For purposes of paragraph (1), with respect to any claim holder, the term "related party" means each of the following:

(A) The spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claim holder.

(B) Any affiliate of the claim holder.

(f) CO-OWNERSHIP.—Upon the failure of any one or more of several co-owners to contribute such co-owner or owners' portion of the fee under this section, any co-owner who has paid such fee may, after the payment due date, give the delinquent co-owner or owners notice of such failure in writing (or by publication in the newspaper nearest the claim for at least once a week for at least 90 days). If at the expiration of 90 days after such notice in writing or by publication, any delinquent co-owner fails or refuses to contribute his portion, his interest in the claim shall become the property of the co-owners who have paid the required fee.

(g) FUND.—All monies received under this section shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title III of this Act.

(h) CREDIT AGAINST ROYALTY.—The amount of the annual claim maintenance fee required to be paid under this section for any claim for any period shall be credited against the amount of royalty required to be paid under section 306 for the same period with respect to that claim.

#### SEC. 106. FAILURE TO COMPLY.

(a) FORFEITURE.—The failure of the claim holder to file the notice of location, to pay the location fee, or to pay the claim maintenance fee for a mining claim as required by this title shall be deemed conclusively to constitute forfeiture of the mining claim by operation of law. Forfeiture shall not relieve any person of any obligation created under this Act, including reclamation.

(b) **PROHIBITION.**—No claim holder may locate a new claim on the lands such claim holder included in a forfeited claim for 1 year from the date such claim is deemed forfeited.

(c) **RELINQUISHMENT.**—A claim holder deciding not to pursue mineral activities on a claim may relinquish such claim by notifying the Secretary. A claim holder relinquishing a claim is responsible for reclamation as required by section 207 of this Act and all other applicable requirements. A claim holder who relinquishes a claim shall not be subject to the prohibition of subsection (b) of this section unless the Secretary determines that the claim is being relinquished and relocated for the purpose of avoiding compliance with any provision of this Act, including payment of the claim maintenance fee.

#### SEC. 107. BASIS FOR CONTEST.

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

(A) Any claim located before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim is located within any National Conservation System unit, or within any area referred to in section 101(b).

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

(2) The Secretary may initiate contest proceedings against those mining claims referred to in paragraph (1) at any time, except that nothing in this subsection may be construed as requiring the Secretary to inquire into, or contest, the validity of a mining claim for the purpose of the conversion referred to in section 104, except as provided in section 412.

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

(4) Any contest proceeding initiated pursuant to paragraph (1) shall determine whether the mining claim or claims subject to such proceeding supported a discovery of a valuable mineral deposit within the meaning of the general mining laws on the effective date of this Act.

(b) **CONTINUED SUFFICIENCY OF MINING CLAIM.**—(1) At any time, upon request of the Secretary, the claim holder shall demonstrate that the continued retention of a mining claim located or converted under this Act is exclusively related to mineral activities at the site.

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

(A) The lands or interests in lands included in the mining claim are not used predominantly for recreational, residential or other purposes rather than for mineral activities and are being held in good faith for the ultimate exploration for, development of, or production of locatable minerals, as dem-

onstrated by the claimholder or his or her assigns through showings satisfactory to the Secretary.

(B) The claim holder or operator does not restrict access to the lands or interests in lands included in the mining claim in a manner that is not required for mineral activities.

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

(D) The claim holder or operator has not constructed, improved, maintained or used a structure located on a mining claim in a manner not specifically authorized by the Secretary in accordance with this Act.

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

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

(2) Upon declaring a mining claim null and void pursuant to subsection (b), the Secretary shall provide a reasonable opportunity for the mining claim holder or operator to remove any real or personal property which such person had previously placed upon the claim. If the property is not removed within the time provided, the Secretary may retain the property or provide for its disposition or destruction.

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

## TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

### SEC. 201. SURFACE MANAGEMENT STANDARD.

Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary, and for National Forest System lands the Secretary of Agriculture, shall require that mineral activities on Federal lands conducted by any person minimize adverse impacts to the environment.

### SEC. 202. PERMITS.

(a) **PERMITS REQUIRED.**—No person may engage in mineral activities on Federal lands that may cause a disturbance of surface resources, including but not limited to, land, air, ground water and surface water, fish, wildlife, and biota unless—

(1) the claim was properly located or converted under this Act and properly maintained; and

(2) a permit was issued to such person under this title authorizing such activities.

(b) **NEGLECTIBLE DISTURBANCE.**—Notwithstanding subsection (a)(2), a permit under this title shall not be required for mineral activities related to exploration, or gathering of data, required to comply with section 203 or 204 that cause a negligible disturbance of surface resources and do not involve any of the following:

(1) The use of mechanized earth moving equipment, suction dredging, explosives.

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

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

Persons engaging in such activities shall provide prior written notice. The Secretary and the Secretary of Agriculture may provide, by joint regulations the manner in which such notice shall be provided.

(c) **WAIVER OF THE SOVEREIGN IMMUNITY OF INDIAN TRIBES.**—The Secretary is authorized

to require Indian tribes to waive sovereign immunity as a condition of obtaining a permit under this Act.

### SEC. 203. EXPLORATION PERMITS.

(a) **AUTHORIZED EXPLORATION ACTIVITY.**—Any claim holder may apply for an exploration permit for any mining claim authorizing the claim holder to remove a reasonable amount of the locatable minerals from the claim for analysis, study and testing. Such permit shall not authorize the claim holder to remove any mineral for sale nor to conduct any activities other than those required for exploration for locatable minerals and reclamation.

(b) **PERMIT APPLICATION REQUIREMENTS.**—An application for an exploration permit under this section shall be submitted in a manner satisfactory to the Secretary or, for National Forest System lands, the Secretary of Agriculture, and shall contain an exploration plan, a reclamation plan for the proposed exploration, such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations, and each of the following:

(1) The name, mailing address, and social security number or tax identification number, as applicable, of each of the following:

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

(B) The operator (if different than the applicant) of the claim concerned.

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

(2) A statement of whether any person referred to in subparagraphs (A) through (C) of paragraph (1) is currently in violation of, or was, during the 3-year period preceding the date of the application, found to be in violation of, any of the following and, if so, a brief explanation of the facts involved, including identification of the site and nature of the violation:

(A) Any provision of this Act or any regulation under this Act.

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

(C) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) or any regulation under that Act at any site where surface coal mining operations have occurred or are occurring.

(3) A description of the type and method of exploration activities proposed, the engineering techniques proposed to be used and the equipment proposed to be used.

(4) The anticipated starting and termination dates of each phase of the exploration activities proposed, including any planned temporary cessation of exploration.

(5) A map, to an appropriate scale, clearly showing the land to be affected by the proposed exploration.

(6) Information determined necessary by the Secretary concerned to assess the cumulative impacts, as required to comply with the National Environmental Policy Act.

(7) Evidence of appropriate financial assurance as specified in section 206.

(c) **RECLAMATION PLAN REQUIREMENTS.**—The reclamation plan required to be included in a permit application under subsection (b) shall include such provisions as may be jointly prescribed by the Secretary and the Secretary of Agriculture and each of the following:

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

(2) A description of reclamation measures proposed pursuant to the requirements of section 207.

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

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

(5) A description of the proposed condition of the land, including the fish and wildlife resources and habitat contained thereon, following the completion of reclamation.

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

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

(2) The applicant has demonstrated that proposed reclamation can be accomplished.

(3) The proposed exploration activities and condition of the land after the completion of exploration activities and final reclamation would conform with the land use plan applicable to the area subject to mineral activities.

(4) The area subject to the proposed permit is not included within an area designated unsuitable under section 209 or not open to location under section 101(b) for the types of exploration activities proposed.

(5) The applicant has demonstrated that the exploration plan and reclamation plan will be in compliance with the requirements of this Act and all other applicable Federal requirements, and any State requirements agreed to by the Secretary of the Interior (or Secretary of Agriculture, as appropriate) pursuant to a cooperative agreement under section 208.

(6) The applicant has fully complied with the requirements of section 206 (relating to financial assurance).

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

(f) PERMIT MODIFICATION.—During the term of an exploration permit the permit holder may submit an application to modify the permit. To approve a proposed modification to the permit, the Secretary concerned shall make the same determinations as are required in the case of an original permit, except that the Secretary and the Secretary of Agriculture may specify by joint rule the extent to which requirements for initial exploration permits under this section shall apply to applications to modify an exploration permit based on whether such modifications are deemed significant or minor.

(g) FEES.—Each application for a permit pursuant to this section shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by the Secretary of the Interior. Such amount shall be equal to the actual or anticipated cost to the Secretary or the Secretary of Agriculture, as the case may be, of reviewing, administering, and enforcing such permit, as determined by such Secretary. All moneys received under this subsection shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title III of this Act.

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

(2) Such Secretary may allow a person holding a permit to transfer, assign, or sell

rights under the permit to a successor, if the Secretary finds, in writing, that the successor—

(A) is eligible to receive a permit in accordance with section 205;

(B) has submitted evidence of financial assurance satisfactory under section 206; and

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

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

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost to the Secretary or the Secretary of Agriculture, as appropriate, of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by the Secretary of the Interior. All moneys received under this subsection shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title III of this Act.

#### SEC. 204. OPERATIONS PERMIT.

(a) OPERATIONS PERMIT.—Any claim holder may apply to the Secretary, or for National Forest System lands, the Secretary of Agriculture, for an operations permit authorizing the claim holder to carry out mineral activities on Federal lands. The permit shall include such terms and conditions as prescribed by such Secretary to carry out this title.

(b) PERMIT APPLICATION REQUIREMENTS.—An application for an operations permit under this section shall be submitted in a manner satisfactory to the Secretary concerned and shall contain an operations plan, a reclamation plan, such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations, and each of the following:

(1) The name, mailing address, and social security number or tax identification number, as applicable, of each of the following:

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

(B) The operator (if different than the applicant) at the claim concerned.

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

(D) Each affiliate and each officer or director of the applicant.

(2) A statement of whether a person referred to in subparagraphs (A) through (D) of paragraph (1) is currently in violation of, or was, during the 3-year period preceding the date of application, found to be in violation of, any of the following and if so, a brief explanation of the facts involved, including identification of the site and the nature of the violation:

(A) Any provision of this Act or any regulation under this Act.

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

(C) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) or any regulation under that Act at any site where surface coal mining operations have occurred or are occurring.

(3) A statement of any current or previous permits or plans of operations issued under the Surface Mining Control and Reclamation Act or the Federal Land Policy and Management Act.

(4) A description of the type and method of mineral activities proposed, the engineering

techniques proposed to be used and the equipment proposed to be used.

(5) The anticipated starting and termination dates of each phase of the mineral activities proposed, including any planned temporary cessation of operations.

(6) Maps, to an appropriate scale, clearly showing the lands, watersheds, and surface waters, to be affected by the proposed mineral activities; surface and mineral ownership; facilities, including roads and other man-made structures; proposed disturbances; soils and vegetation; topography; and water supply intakes and surface water bodies.

(7) A description of the biological resources in or associated with the area subject to mineral activities, including vegetation, fish and wildlife, riparian and wetland habitats.

(8) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(9) A description of the quantity and quality of surface and ground water resources in or associated with the area subject to mineral activities, based on pre-disturbance monitoring sufficient to establish seasonal variations.

(10) An analysis of the probable hydrologic consequences of the mineral activities, both on and off the area subject to mineral activities, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the Secretary concerned of the probable cumulative impacts of the anticipated mineral activities in the area upon the hydrology of the area and particularly upon water availability.

(11) A description of the monitoring systems to be used to detect and determine whether compliance has and is occurring consistent with the surface management requirements and to monitor the effects of mineral activities on the site and surrounding environment, including but not limited to, ground water, surface water, air, soils, and fish and wildlife resources.

(12) Accident contingency plans that include, but are not limited to, immediate response strategies and corrective measures to mitigate environmental impacts and appropriate insurance to cover accident contingencies.

(13) Any measures to comply with any conditions on minerals activities that may be required in the applicable land use plan or any condition stipulated pursuant to section 209.

(14) Information determined necessary by the Secretary concerned to assess the cumulative impacts of mineral activities, as required to comply with the National Environmental Policy Act.

(15) Such other environmental baseline data as the Secretaries, by joint regulation, shall require sufficient to validate the determinations required for issuance of a permit under this Act.

(16) Evidence of appropriate financial assurance as specified in section 206.

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

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

(19) A copy of the applicant's advertisement to be published as required by section 403 (relating to public participation).

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

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

(2) A description of reclamation measures proposed pursuant to the requirements of section 207.

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

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

(5) A description of the proposed condition of the land, including the fish and wildlife resources and habitat contained thereon, following the completion of reclamation.

(6) A description of the maintenance measures that will be necessary to meet the surface management requirements of this Act, such as, but not limited to, drainage water treatment facilities, or liner maintenance and control.

(7) The consideration which has been given to making the condition of the land after the completion of mineral activities and final reclamation consistent with the applicable land use plan.

(d) PERMIT ISSUANCE OR DENIAL.—(1) After providing notice and opportunity for public comment and hearing, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall issue an operations permit if such Secretary makes each of the following determinations in writing, and such Secretary shall deny a permit which he or she finds does not fully meet the requirements of this paragraph:

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

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

(C) The proposed mineral activities and condition of the land including the fish and wildlife resources and habitat contained thereon, after the completion of mineral activities and final reclamation conform to the land use plan applicable to the area subject to mineral activities.

(D) The area subject to the proposed plan is not included within an area designated unsuitable or not open to location for the types of mineral activities proposed.

(E) The applicant has demonstrated that the mineral activities will be in compliance with this Act and all other applicable Federal requirements, and any State requirements agreed to by the appropriate Secretary pursuant to cooperative agreements under section 208.

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

(G) The applicant has fully complied with the requirements of section 206 (relating to financial assurance).

(2) Issuance of an operations permit under this section shall be based on information supplied by the applicant or other interested parties and the applicant shall have the burden of establishing that the application complies with paragraph (1).

(3) With respect to any activities specified in the reclamation plan referred to in subsection (b) which constitute a removal or re-

medial action under section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Secretary shall consult with the Administrator of the Environmental Protection Agency prior to the issuance of an operating permit. To the extent practicable, the Administrator shall ensure that the reclamation plan does not require activities which would increase the costs or likelihood of removal or remedial actions under Comprehensive Environmental Response, Compensation and Liability Act of 1980 or corrective actions under the Solid Waste Disposal Act.

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

(2) Failure by the operator to commence mineral activities within one year of the date scheduled in an operations permit shall require a modification of the permit unless the Secretary concerned determines that the delay was beyond the control of the applicant.

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

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

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

(C) Any additional revised or updated information required by the Secretary concerned has not been provided.

(D) The applicant has not demonstrated that the mineral activities will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary concerned pursuant to cooperative agreements under section 208.

(4) A renewal of an operations permit shall be for a term of 10 years or for such additional term as the Secretary concerned deems appropriate. Application for renewal shall be made at least one year prior to the expiration of the existing permit. Where a renewal application has been timely submitted and a permit expires prior to Secretarial action on the renewal application, reclamation shall and other mineral activities may continue in accordance with the terms of the expired permit until the Secretary concerned makes a decision on the renewal application.

(f) PERMIT MODIFICATION.—(1) During the term of an operations permit the operator may submit an application to modify the permit (including the operations plan or reclamation plan, or both). To approve a proposed modification, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall make the same determinations as are required in the case of an original operations permit, except that the Secretaries may establish joint rules regarding the extent to which requirements for original permits under this section shall apply to applications to modify a permit based on whether such modifications are deemed significant or minor. Such rules shall provide that all requirements applicable to a new permit shall apply to any extension of the area covered by the permit (except for incidental boundary revisions).

(2) The Secretary, or for National Forest System lands the Secretary of Agriculture, may, at any time, require reasonable modification to any operations plan or reclamation plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary concerned.

(g) TEMPORARY CESSATION OF OPERATIONS.—(1) No operator conducting mineral activities under an operations permit in effect under this title may temporarily cease mineral activities for a period of 180 days or more under an operations permit unless the Secretary concerned has approved such temporary cessation or unless the temporary cessation is permitted under the original permit. Any operator temporarily ceasing mineral activities for a period of 180 days or more under an existing operations permit shall submit, before the expiration of such 180-day period, a complete application for temporary cessation of operations to the Secretary concerned for approval unless the temporary cessation is permitted under the original permit.

(2) An application for approval of temporary cessation of operations shall include such provisions as prescribed by the Secretary concerned, including but not limited to the steps that shall be taken during the cessation of operations period to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations such Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

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

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

(B) A determination that reclamation is in compliance with the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) A determination that the amount of financial assurance filed with the permit application is sufficient to assure completion of the reclamation activities identified in the approved reclamation plan in the event of forfeiture.

(D) A determination that any outstanding notices of violation and cessation orders incurred in connection with the plan for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary concerned.

(h) PERMIT REVIEWS.—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall review each permit issued under this section every 3 years during the term of such permit and, based upon a written finding, such Secretary may require the operator to take such actions as the Secretary deems necessary to assure that mineral activities conform to the permit, including adjustment of financial assurance requirements.

(i) FEES.—Each application for a permit pursuant to this section shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost to

the Secretary, or for National Forest System lands the Secretary of Agriculture, of reviewing, administering, and enforcing such permit, as determined by the Secretary of the Interior. All moneys received under this subsection shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title III of this Act.

(j) TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.—(1) No transfer, assignment, or sale of rights granted by a permit under this section shall be made without the prior written approval of the Secretary, or for National Forest System lands the Secretary of Agriculture.

(2) The Secretary, or for National Forest System lands the Secretary of Agriculture, may allow a person holding a permit to transfer, assign, or sell rights under the permit to a successor, if such Secretary finds, in writing, that the successor—

(A) is eligible to receive a permit in accordance with section 205;

(B) has submitted evidence of financial assurance satisfactory under section 206; and

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

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

(4) Each application for approval of a permit transfer, assignment, or sale pursuant to this subsection shall be accompanied by a fee payable to the Secretary of the Interior in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost to the Secretary or the Secretary of Agriculture of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by the Secretary of the Interior. All moneys received under this subsection shall be deposited in the Abandoned Locatable Minerals Mine Reclamation Fund established under title III of this Act.

#### SEC. 205. PERSONS INELIGIBLE FOR PERMITS.

(a) CURRENT VIOLATIONS.—Unless corrective action has been taken in accordance with subsection (c), no permit under this title shall be issued or transferred to an applicant if the applicant or any agent of the applicant, the operator (if different than the applicant) of the claim concerned, any claim holder (if different than the applicant) of the claim concerned, or any affiliate or officer or director of the applicant is currently in violation of any of the following:

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

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

(3) The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) or any regulation implementing that Act at any site where surface coal mining operations have occurred or are occurring.

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

(c) CORRECTION.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, may issue or reinstate a permit under this title if the applicant submits proof that the violation referred to in subsection (a) or (b) has been corrected or is in

the process of being corrected to the satisfaction of such Secretary or if the applicant submits proof that the violator has filed and is presently pursuing, a direct administrative or judicial appeal to contest the existence of the violation. For purposes of this section, an appeal of any applicant's relationship to an affiliate shall not constitute a direct administrative or judicial appeal to contest the existence of the violation.

(2) Any permit which is issued or reinstated based upon proof submitted under this subsection shall be conditionally approved or conditionally reinstated, as the case may be. If the violation is not successfully abated or the violation is upheld on appeal, the permit shall be suspended or revoked.

(d) PATTERN OF WILLFUL VIOLATIONS.—No permit under this Act may be issued to any applicant if there is a demonstrated pattern of willful violations of the surface management requirements of this Act by the applicant, any affiliate of the applicant, or the operator or claim holder if different than the applicant, and such violations are of such nature and duration, and with such resulting irreparable damage to the environment, as to clearly indicate an intent not to comply with the surface management requirements.

#### SEC. 206. FINANCIAL ASSURANCE.

(a) FINANCIAL ASSURANCE REQUIRED.—(1) Before any permit is issued under this title, the operator shall file with the Secretary, or for National Forest System lands the Secretary of Agriculture, evidence of financial assurance payable to the United States on a form prescribed and furnished by such Secretary and conditional upon faithful performance of such permit and all other requirements of this Act. The financial assurance shall be provided in the form of a surety bond, trust fund, letters of credits, government securities, cash or equivalent.

(2) The financial assurance shall cover all lands within the initial permit area and shall be extended to cover all lands added pursuant to any permit modification made under section 203(f), section 204(f), or section 204(h). The financial assurance shall cover all lands to be affected by mineral activities as described and depicted in the permit application.

(b) AMOUNT.—The amount of the financial assurance required under this section shall be sufficient to assure the completion of reclamation satisfying the requirements of this Act if the work were to be performed by the Secretary concerned in the event of forfeiture. The calculation of such amount shall take into account the maximum level of financial exposure which shall arise during the mineral activity.

(c) DURATION.—The financial assurance required under this section shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for revegetation as specified under subsection 207(b)(6)(B), and effluent treatment as specified in subsection (g).

(d) ADJUSTMENTS.—The amount of the financial assurance and the terms of the acceptance of the assurance may be adjusted by the Secretary concerned from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, or pursuant to section 204(h), but the financial assurance must otherwise be in compliance with this section. The Secretary concerned shall specify periodic times, or set a schedule, for reevaluating or adjusting the amount of financial assurance.

(e) RELEASE.—Upon request, and after notice and opportunity for public comment, and after inspection by the Secretary, or for National Forest System lands the Secretary of Agriculture, such Secretary may, after consultation with the Administrator of the

Environmental Protection Agency, release in whole or in part the financial assurance required under this section if the Secretary makes both of the following determinations:

(1) A determination that reclamation covered by the financial assurance has been accomplished as required by this Act.

(2) A determination that the operator has declared that the terms and conditions of any other applicable Federal requirements, and State requirements applicable pursuant to cooperative agreements under section 208, have been fulfilled.

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

(1) After the operator has completed any required backfilling, regrading and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan, that portion of the total financial assurance secured for the area subject to mineral activities attributable to the completed activities may be released.

(2) After the operator has completed successfully all remaining mineral activities and reclamation activities and all requirements of the operations plan and the reclamation plan (including the provisions of section 207(b)(6)(B) relating to revegetation and effluent treatment required by subsection (g)), and all other requirements of this Act have in fact been fully met, the remaining portion of the financial assurance may be released.

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

(g) EFFLUENT.—Where any discharge resulting from the mineral activities requires treatment in order to meet the applicable effluent limitations, the financial assurance shall include the estimated cost of maintaining such treatment for the projected period that will be needed after the cessation of mineral activities. The portion of the financial assurance attributable to such estimated cost of treatment shall not be released until the discharge has ceased, or, if the discharge continues, until the operator has met all applicable effluent limitations and water quality standards for 5 full years without treatment.

(h) ENVIRONMENTAL HAZARDS.—If the Secretary, or for National Forest System lands the Secretary of Agriculture, determines, after final release of financial assurance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the operations permit of this Act were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 407 requiring the claimholder or operator (or any person who controls the claimholder or operator) to correct the condition.

#### SEC. 207. RECLAMATION.

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

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

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

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

(b) RECLAMATION STANDARDS.—Mineral activities shall be conducted in accordance with the following standards; as well as any additional standards the Secretaries may jointly promulgate under section 201 and subsection (a) of this section to address specific environmental impacts of selected methods of mining:

(1) SOILS.—(A) Soils, including top soils and subsoils removed from lands subject to mineral activities shall be segregated from waste material and protected for later use in reclamation. If such soil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the soil is preserved from wind and water erosion, remains free of contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

(C) In the event the soil (other than topsoil) from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that support revegetation, these substitute materials shall be removed, segregated or preserved in a like manner as under subparagraph (A) for later use in reclamation.

(D) Mineral activities shall be conducted to prevent contamination of soils to the extent possible using the best technology currently available. If contamination occurs, the operator shall decontaminate or dispose of any contaminated soils which have resulted from the mineral activities.

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

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

(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the permit area and surrounding watershed existing prior to the mineral activities in the permit area and in the surrounding watershed, as established by the baseline

information provided pursuant to section 204(b)(10). Hydrologic balance includes the quality and quantity of ground water and surface water and their interrelationships, including recharge and discharge rates. In all cases, the operator shall comply with Federal and State laws related to the quality and quantity of such waters.

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

(C) Mineral activities shall prevent any contamination of surface and ground water with acid or other toxic mine pollutants and shall prevent or remove water from contact with acid or toxic producing deposits.

(D) Reclamation shall restore approximate hydrologic balance existing prior to the mineral activities.

(E) Where the quality of surface water or ground water used for domestic, municipal, agricultural, or industrial purposes is adversely impacted by mineral activities, such water shall be treated, or replaced with the same quantity and approximate quality of water, comparable to premining conditions as established in paragraph (10) of section 204(b).

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

(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(6) VEGETATION.—(A) The area subject to mineral activities shall be vegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area, except that introduced species may be used at the discretion of the Secretary, or for National Forest System lands the Secretary of Agriculture, in consultation with the Director, Fish and Wildlife Service, if such introduction of such species is necessary as an interim step in, and is part of a program to restore a native plant community. In such instances where the complete backfill of an open mine pit is not required under paragraph (5), such Secretary shall prescribe such vegetation requirements as conform to the applicable land use plan.

(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less. The period may be for a longer time at the discretion of the Secretary concerned where the average precipitation is 26 inches or less.

(7) EXCESS WASTE.—(A) Waste material in excess of that required to comply with paragraph (5) shall be transported and placed in

approved areas, in a controlled manner in such a way so as to assure long-term mass stability, to prevent mass movement and to facilitate reclamation. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess waste material piles shall be certified by a qualified professional engineer.

(B) Excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be backfilled, sealed or otherwise controlled when no longer needed for the conduct of mineral activities to ensure protection of the public and the environment, and management of fish and wildlife and livestock.

(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during mineral activities shall be removed, unless the Secretary concerned in consultation with the affected land managing agency, determines that use of the buildings, structures or equipment would be consistent with subsection (a) or for environmental monitoring and the Secretary concerned takes ownership of such structures.

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

(c) APPLICATION OF RECLAMATION STANDARDS TO EXPLORATION.—The provisions of this section shall apply to mineral exploration pursuant to a permit under this Act, except that paragraphs (5) and (6) of subsection (b) shall not apply during any interim periods between completion of the approved exploration and the commencement of further mineral activities, not to exceed 2 years, if the operator maintains a sufficient financial assurance to reclaim the disturbed surface should further mineral activities not be authorized. The Secretary concerned shall prescribe standards for interim stabilization and revegetation.

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

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

(1) The term "best technology currently available" means equipment, devices, systems, methods, or techniques which have demonstrated engineering and economic feasibility, success and practicality. Within the constraints of the surface management requirements of this Act, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall have the discretion to determine the best technology currently available on a case-by-case basis.

(2) The term "waste material" means the material resulting from mineral activities involving extraction, beneficiation and processing, including but not limited to tailings, and such material resulting from mineral activities involving processing, to the extent such material is not subject to subtitle C of the Solid Waste Disposal Act or the Uranium Mill Tailings Radiation Control Act.

(3) The term "ore piles" means ore stockpiled for beneficiation prior to the completion of mineral activities.

(4) The term "subgrade ore" means ore that is too low in grade to be processed at the time of extraction but which could reasonably be processed in the foreseeable future.

(5) The term "soil" means the earthy or sandy layer, ranging in thickness from a few inches to several feet, composed of finely divided rock debris, of whatever origin, mixed with decomposing vegetal and animal matter, which forms the surface of the ground and in which plants grow or may grow.

#### SEC. 208. STATE LAW AND REGULATION.

(a) STATE LAW.—(1) Any reclamation standard or requirement in State law or regulation that meets or exceeds the requirements of section 207 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of section 206 shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of section 404 shall not be construed to be inconsistent with such requirements.

(b) APPLICABILITY OF OTHER STATE REQUIREMENTS.—(1) Nothing in this Act shall be construed as affecting any toxic substance, solid waste, or air or water quality, standard or requirement of any State law or regulation, or of tribal law or regulation, which may be applicable to mineral activities on lands subject to this Act.

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

(c) COOPERATIVE AGREEMENTS.—(1) Any State may enter into a cooperative agreement with the Secretary, or for National Forest System lands the Secretary of Agriculture, for the purposes of such Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary concerned shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the surface management requirements of this Act for the purposes of such plan of operations.

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

(d) PRIOR AGREEMENTS.—Any cooperative agreement or such other understanding between the Secretary concerned and any State, or political subdivision thereof, relating to the surface management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until the effective date of this Act, after which time the terms and conditions of any such agreement or understanding shall only be applicable to plans of operations approved by the Secretary concerned prior to the effective date of this Act.

(e) DELEGATION.—The Secretary, or for National Forest System lands the Secretary of Agriculture, shall not delegate to any State, or political subdivision thereof, the Secretary's authorities, duties and obligations under this Act, including with respect to any cooperative agreements entered into under this section.

(f) PREEMPTION.—Subject to section 414(b), the requirements of this Act shall preempt any conflicting requirements of any State, or political subdivision thereof relating to mineral activities for locatable minerals.

#### SEC. 209. UNSUITABILITY REVIEW.

(a) AUTHORITY.—(1) As provided for in this section, the Secretary of the Interior, in carrying out the Secretary's responsibilities under the Federal Land Policy and Management Act of 1976, and the Secretary of Agriculture, in carrying out the Secretary's responsibilities under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall each review lands that are subject to this Act in order to determine, in accordance with the provisions of subsection (b), whether there are any areas on such lands which are either unsuitable for all types of mineral activities or conditionally suitable for certain types of mineral activities.

(2) Any determination made in accordance with subsection (b) shall be immediately effective. Such determination shall be incorporated into the applicable land use plan when such plan is adopted, revised, or significantly amended pursuant to provisions of law other than this Act.

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

(b) SPECIAL CHARACTERISTICS.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine that an area open to location is unsuitable for all or certain mineral activities if such Secretary finds that such activities would result in significant, permanent and irreparable damage to special characteristics as described in paragraph (3) which cannot be prevented by the imposition of conditions in the operations permit required under section 204 (b).

(2) The Secretary, or for National Forest System lands, the Secretary of Agriculture, may determine, after notice and opportunity for public comment, that an area is conditionally suitable for all or certain types of mineral activities, if the Secretary concerned determines that any of the special characteristics of such area, as listed in paragraph (3), require protection from the effects of mineral activities.

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

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

(B) The presence in such area of publicly owned places which are listed on or are determined eligible for listing on the National Register of Historic Places.

(C) The designation of all or any portion of such area or any adjacent area as a National Conservation System unit.

(D) The designation of all or any portion of such area or any adjacent area as critical habitat for threatened or endangered species under the Endangered Species Act.

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

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

(c) PERMIT APPLICATION PRIOR TO REVIEW.—(1) If an area covered by an applica-

tion for a permit required under section 204, has not been reviewed pursuant to subsection (a) prior to submission of the application, the Secretary, or for National Forest System lands, the Secretary of Agriculture, shall review the area that would be affected by the proposed mineral activities to determine, according to the provisions of subsection (b), whether the area is unsuitable for all types of mineral activities or conditionally suitable for certain types of mineral activities. Such review and determination shall precede the final decision on the permit application.

(2) The Secretary concerned shall use such review in the next revision or significant amendment to the applicable land use plan to the extent necessary to reflect the unsuitability or conditional suitability of such lands.

(d) EFFECT OF DETERMINATION.—(1) In any instance in which a determination of unsuitability is made for any area in accordance with subsection (b)(1), all mineral activities shall be prohibited in such area, and the Secretary shall (with the consent of the Secretary of Agriculture for National Forest System lands) withdraw such area pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714). The Secretary's determination under this section shall constitute the documentation required to be provided under section 204(c)(12) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(2) In any instance where the Secretary, or for National Forest System lands, the Secretary of Agriculture, determines in accordance with subsection (b)(2) that, by reason of any of the special characteristics listed in subsection (b)(3), an area is conditionally suitable for all or certain mineral activities, the Secretary concerned shall include such additional conditions in each permit for mineral activities in such area as necessary to limit or control mineral activities to the extent necessary to protect the special characteristics concerned.

(3) Nothing in this section shall be construed as affecting lands where mineral activities were being conducted on the date of enactment of this Act under approved plans of operations or under notice (as provided for in the regulations of the Secretary of the Interior in effect prior to the date of enactment of this Act relating to operations that cause a cumulative disturbance of 5 acres or less).

(4) Nothing in this section shall be construed as prohibiting mineral activities at a specific site, where substantial legal and financial commitments in such mineral activities were in existence on the date of enactment of this Act, but nothing in this section shall be construed as prohibiting either Secretary from regulating such activities in accordance with other authority of law. As used in this paragraph, the term "substantial legal and financial commitments" means, with respect to a specific site, significant investments, expenditures, or undertakings that have been made to explore or develop any mining claim or and millsite located at such site under the general mining laws or converted under this Act, such as but not limited to: contracts for minerals produced; construction; contracts for the construction; or commitment to raise capital for the construction of processing, beneficiation, extraction, or refining facilities, or transportation or utility infrastructure; exploration activities conducted to delineate proven or probable ore reserves; acquisition of mining claims (but only if such acquisition is part of other significant investments specified in this paragraph); and such other costs or expenditures related to mineral activities at such site as are similar to the foregoing itemized costs or expendi-

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

(e) **WITHDRAWAL REVIEW.**—(1) In carrying out the responsibilities referred to in subsection (a), the Secretary or, for National Forest System lands, the Secretary of Agriculture, shall review all administrative withdrawals of land under such Secretary's jurisdiction (other than wilderness study areas) to determine whether the revocation or modification of such withdrawal for the purpose of allowing such lands to be opened to the location of mining claims under this Act is appropriate as a result of either of the following:

(A) The imposition of any conditions imposed as part of the land use planning process or the imposition of any conditions as a result to the review process under subsection (a).

(B) The limitation of section 417 (relating to limitation on patent issuance).

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

(f) **EXPLORATION REVIEWS.**—In conjunction with review of a permit application submitted pursuant to section 203, and upon request of the applicant, the Secretary, or for National Forest System lands, the Secretary of Agriculture, shall review the area proposed to be affected by mineral activities to determine whether the area would be unsuitable or conditionally suitable for all or certain mineral activities.

**SEC. 210. CERTAIN MINERAL ACTIVITIES COVERED BY OTHER LAW.**

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

**TITLE III—ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND**

**SEC. 301. ABANDONED LOCATABLE MINERALS MINE RECLAMATION.**

(a) **ESTABLISHMENT.**—(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter in this title referred to as the "Fund"). The Fund shall be administered by the Secretary acting through the Director of the Office of Surface Mining Reclamation and Enforcement.

(2) The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary's judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

(b) **AMOUNTS.**—The following amounts shall be credited to the Fund:

(1) All moneys received from the collection of claim maintenance fees under section 105.

(2) All moneys collected pursuant to section 106 (relating to failure to comply), section 407 (relating to enforcement) and section 405 (relating to citizens suits).

(3) All permit fees and transfer fees received under sections 203 and 204.

(4) All donations by persons, corporations, associations, and foundations for the purposes of this title.

(5) All amounts referred to in section 306 (relating to royalties and penalties for underreporting).

(6) All other receipts from fees, royalties, penalties and other sources collected under this Act.

(c) **ADMINISTRATIVE COSTS.**—(1) In calculating the amount to be deposited in the Fund during any fiscal year under subsection (b), the enacted appropriation of the Department of the Interior during the preceding year attributable to administering this Act shall be deducted from the total of the amounts listed in subsection (b) prior to the transfer of such amounts to the Fund.

(2) The amount deducted under paragraph (1) of this section shall be available to the Secretary, subject to appropriation, for payment of the costs of administering this Act.

**SEC. 302. USE AND OBJECTIVES OF THE FUND.**

(a) **IN GENERAL.**—The Secretary is authorized, subject to appropriations, to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral activities on lands the legal and beneficial title to which resides in the United States, land within the exterior boundary of any national forest system unit, or other lands described in subsection (d) or section 303, including any of the following:

(1) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

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

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

(4) Backfilling, sealing, or otherwise controlling, abandoned underground mine entries.

(5) Revegetation of land adversely affected by past mineral activities to prevent erosion and sedimentation and to enhance wildlife habitat.

(6) Control of surface subsidence due to abandoned underground mines.

Moneys in the Fund shall also be available for purposes of compensation (and other payments) under section 422.

(b) **PRIORITIES.**—To the extent that moneys in the fund are in excess of the amount of compensation (and other payments) paid under section 422, expenditures of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past mineral activities, especially as relates to surface water and groundwater contaminants.

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

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

(c) **HABITAT.**—Reclamation and restoration activities under this title, particularly those identified under subsection (a)(4), shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence prior to the commencement of such activities.

(d) **OTHER AFFECTED LANDS.**—Where mineral exploration, mining, beneficiation, processing, or reclamation activities has been carried out with respect to any mineral which would be a locatable mineral if the legal and beneficial title to the mineral were in the United States, if such activities directly affect lands managed by the Bureau of Land Management as well as other lands and if the legal and beneficial title to more than 50 percent of the affected lands resides in the United States, the Secretary is authorized, subject to appropriations, to use moneys in

the fund for reclamation and restoration under subsection (a) for all directly affected lands.

(e) **RESPONSE OR REMOVAL ACTIONS.**—Reclamation and restoration activities under this title which constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a Memorandum of Understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise and joint activities under the appropriate circumstances, which provide assurances that reclamation or restoration activities under this title, to the extent practicable, shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and which avoid oversight by multiple agencies to the maximum extent practicable.

**SEC. 303. ELIGIBLE LANDS AND WATERS.**

(a) **ELIGIBILITY.**—Reclamation expenditures under this title may only be made with respect to Federal lands or Indian lands or water resources that traverse or are contiguous to Federal lands or Indian lands where such lands or waters resources have been affected by past mineral activities, including any of the following:

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

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under State or other Federal laws.

(3) Lands for which it can be established that such lands do not contain locatable minerals which could economically be extracted through the reprocessing or reining of such lands, unless such considerations are in conflict with the priorities set forth under paragraphs (1) and (2) of section 302(b).

(b) **SPECIFIC SITES AND AREAS NOT ELIGIBLE.**—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 shall apply to expenditures made from the Fund established under this title.

(c) **INVENTORY.**—The Secretary shall prepare and maintain an inventory of abandoned locatable minerals mines on Federal lands and any abandoned mine on Indian lands which may be eligible for expenditures under this title.

**SEC. 304. FUND EXPENDITURES.**

Moneys available from the Fund may be expended for the purposes specified in section 302 directly by the Director of the Office of Surface Mining Reclamation and Enforcement. The Director may also make such money available for such purposes to the Director of the Bureau of Land Management, the Chief of the United States Forest Service, the Director of the National Park Service, Director of the United States Fish and Wildlife Service, to any other agency of the United States, to an Indian tribe, or to any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this title.

**SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

**SEC. 306. ROYALTY.**

(a) **RESERVATION OF ROYALTY.**—Production of all locatable minerals from any mining

claim located or converted under this Act, or mineral concentrates or products derived from locatable minerals from any mining claim located or converted under this Act, as the case may be, shall be subject to a royalty of 8 percent of the net smelter return from such production. The claimholder and any operator to whom the claimholder has assigned the obligation to make royalty payments under the claim and any person who controls such claimholder or operator shall be jointly and severally liable for payment of such royalties.

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

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

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

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is liable to the Secretary for making proper payments for all amounts due for all time periods for which such person as a payment responsibility. Such liability for the period referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

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

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

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS.—(1) A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also in-

clude, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary or any State conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee or State.

(2) Records required by the Secretary under this section shall be maintained for 6 years after release of financial assurance under section 206 unless the Secretary notifies the operator that he or she has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of minerals covered by this Act, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (4)(A) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under this Act.

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

(A) the Secretary of Agriculture consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this section and who have a need to know;

(B) the Secretary of Agriculture accepts liability for wrongful disclosure; and

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

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such underpayments at the same interest rate as is applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and

charged only on the amount of the deficiency and not on the total amount.

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

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

(4) For the purposes of this subsection, the term "substantial underreporting" means the difference between the royalty on the value of the production which should have been reported and the royalty on the value of the production which was reported, if the value which should have been reported is greater than the value which was reported. An underreporting constitutes a "substantial underreporting" if such difference exceeds 10 percent of the royalty on the value of production which should have been reported.

(5) The Secretary shall not impose the assessment provided in paragraphs (2) or (3) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(6) The Secretary shall waive any portion of an assessment under paragraph (2) or (3) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

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

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

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

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

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

(g) DELEGATION.—For the purposes of this section, the term "Secretary" means the Secretary of the Interior acting through the Director of the Minerals Management Service.

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

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

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

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

#### TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

##### Subtitle A—Administrative Provisions

###### SEC. 401. POLICY FUNCTIONS.

(a) MINERALS POLICY.—Section 2 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by adding at the end thereof the following: "It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of paragraphs (1) and (2) of this section."

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604) is amended by inserting before the period the following: ", except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in Federal land use decisionmaking".

###### SEC. 402. USER FEES.

The Secretary and the Secretary of Agriculture are each authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

###### SEC. 403. PUBLIC PARTICIPATION REQUIREMENTS.

(a) OPERATIONS PERMIT.—(1) Concurrent with submittal of an application for an operations permit under section 204 or a renewal or significant modification thereof, the applicant shall publish a notice in a newspaper of local circulation at least once a week for 4 consecutive weeks. The notice shall include: the name of the applicant, the location of the proposed mineral activities, the type and expected duration of the proposed mineral activities, the proposed use of the land after the completion of mineral activities and a location where such plans are publicly available. The applicant shall also notify in writing other Federal, State and local government agencies and Indian tribes that regulate mineral activities or land planning decisions in the area subject to mineral activities or that manage lands adjacent to the area subject to mineral activities. The applicant shall provide proof of such notification to the Secretary, or for National Forest System lands the Secretary of Agriculture.

(2) The applicant for an operations permit shall make copies of the complete permit application available for public review at the office of the responsible Federal surface management agency located nearest to the location of the proposed mineral activities, and at such other public locations deemed appropriate by the State or local government for the county in which the proposed mineral activities will occur prior to final decision by the Secretary, or for National Forest System lands the Secretary of Agriculture. Any person, and the authorized representative of a Federal, State or local governmental agency or Indian tribe, shall have the right to file written comments relating to the approval or disapproval of the permit application until 30 days after the last day of newspaper publication. The Secretary con-

cerned shall promptly make such comments available to the applicant.

(3) Any person may file written comments during the comment period specified in paragraph (2) and any person who is, or may be, adversely affected by the proposed mineral activities may request a nonadjudicatory public hearing to be held in the county in which the mineral activities are proposed. The Secretary concerned shall consider all written comments filed during such period. If a hearing is requested by any person who is, or may be, adversely affected by the proposed mineral activities, the Secretary concerned shall consider such request and may conduct such hearing. When a hearing is to be held, notice of such hearing shall be published in a newspaper of local circulation at least once a week for 2 weeks prior to the hearing date.

###### SEC. 404. INSPECTION AND MONITORING.

(a) INSPECTIONS.—(1) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall make inspections of mineral activities so as to ensure compliance with the surface management requirements of title II.

(2) The Secretary concerned shall establish a frequency of inspections for mineral activities conducted under a permit issued under title II, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or, two per calendar quarter in the case of a permit for which the Secretary concerned approves an application under section 204(g) (relating to temporary cessation of operations). After revegetation has been established in accordance with a reclamation plan, such Secretary shall conduct annually 2 complete inspections. Such Secretary shall have the discretion to modify the inspection frequency for mineral activities that are conducted on a seasonal basis. Inspections shall continue under this subsection until final release of financial assurance.

(3)(A) Any person who has reason to believe he or she is or may be adversely affected by mineral activities due to any violation of the surface management requirements may request an inspection. The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine within 10 working days of receipt of the request whether the request states a reason to believe that a violation exists. If the person alleges and provides reason to believe that an imminent threat to the environment or danger to the health or safety of the public exists, the 10-day period shall be waived and the inspection shall be conducted immediately. When an inspection is conducted under this paragraph, the Secretary concerned shall notify the person requesting the inspection, and such person shall be allowed to accompany the Secretary concerned or the Secretary's authorized representative during the inspection. The Secretary shall not incur any liability for allowing such person to accompany an authorized representative. The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an authorized representative on the inspection.

(B) The Secretaries shall, by joint rule, establish procedures for the review of (i) any decision by an authorized representative not to inspect or (ii) any refusal by such representative to ensure that remedial actions are taken with respect to any alleged violation. The Secretary concerned shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(b) MONITORING.—(1) The Secretary, or for National Forest System lands the Secretary

of Agriculture, shall require all operators to develop and maintain a monitoring and evaluation system which shall identify compliance with all surface management requirements.

(2) Monitoring shall be conducted as close as technically feasible to the mineral activity involved, and in all cases such monitoring shall be conducted within the permit area.

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

(4) The Secretary concerned may require additional monitoring be conducted as necessary to assure compliance with the reclamation and other environmental standards of this Act.

(5) The operator shall file reports with the Secretary, or for National Forest System lands the Secretary of Agriculture, on a frequency determined by the Secretary concerned, on the results of the monitoring and evaluation process, except that if the monitoring and evaluation show a violation of the surface management requirements, it shall be reported immediately to the Secretary concerned. Information received pursuant to this subsection from any natural person shall not be used against any such natural person in any criminal case, except a prosecution for perjury or for giving a false statement. The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section.

(6) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall determine what information must be reported by the operator pursuant to paragraph (5). A failure to report as required by the Secretary concerned shall constitute a violation of this Act and subject the operator to enforcement action pursuant to section 407.

###### SEC. 405. CITIZENS SUITS.

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

(1) against any person (including the Secretary or the Secretary of Agriculture) alleged to have violated (if there is evidence the alleged violation has been repeated), or to be in violation of, any of the provisions of title II or section 404 of this Act or any regulation promulgated pursuant to title II or section 404 of this Act or any term or condition of any permit issued under title II of this Act; or

(2) against the Secretary or the Secretary of Agriculture where there is alleged a failure of such Secretary to perform any act or duty under title II or section 404 of this Act, or to promulgate any regulation under title II or section 404 of this Act, which is not within the discretion of the Secretary concerned.

The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties, including actions brought to apply any civil penalty under this Act. The district courts of the United States shall have jurisdiction to compel agency action unreasonably delayed, except that an action to compel agency action reviewable under section 406 may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 406.

(b) EXCEPTIONS.—(1) No action may be commenced under subsection (a) prior to 60 days

after the plaintiff has given notice in writing of such alleged violation to the Secretary, or for National Forest System lands the Secretary of Agriculture, except that any such action may be brought immediately after such notification if the violation complained of constitutes an imminent threat to the environment or to the health or safety of the public.

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

(3) No action may be commenced under paragraph (2) of subsection (a) against either Secretary to review any rule promulgated by, or to any permit issued or denied by such Secretary if such rule or permit issuance or denial is judicially reviewable under section 406 or under any other provision of law at any time after such promulgation, issuance, or denial is final.

(c) VENUE.—Venue of all actions brought under this section shall be determined in accordance with title 28 U.S.C. 1391.

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

(2) Whenever an action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Secretary, or for National Forest System lands the Secretary of Agriculture. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 45 days following the date on which a copy of the proposed consent judgment is submitted to the Attorney General and the Secretary, or for National Forest System lands the Secretary of Agriculture. During such 45-day period the Attorney General or such Secretary may submit comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.

(e) COSTS.—The court, in issuing any final order in any action brought pursuant to this section may award costs of litigation (including attorney and expert witness fees) to any prevailing party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) SAVINGS CLAUSE.—Nothing in this section shall restrict any right which any person (or class of persons) may have under chapter 7 of title 5 of the United States Code, under section 406 of this Act or under any other statute or common law to bring an action to seek any relief against the Secretary or the Secretary of Agriculture or against any other person, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law. Nothing in this section shall affect the jurisdiction of any court under any provision of title 28 of the United States Code, including any action for any violation of this Act or of any regulation or permit issued under this Act or for any failure to act as required by law. Nothing in this Act shall be construed to be a waiver of the sovereign immunity of an Indian tribe except as provided for in section 202(c).

#### SEC. 406. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) REVIEW BY SECRETARY.—(1)(A) Any person issued a notice of violation or cessation order under section 407, or any person having an interest which is or may be adversely affected by such notice or order, may apply to the Secretary, or for National Forest System lands the Secretary of Agriculture, for review of the notice or order within 30 days of receipt thereof, or as the case may be, within 30 days of such notice or order being modified, vacated or terminated.

(B) Any person who is subject to a penalty assessed under section 106, section 107(c), or section 407 may apply to the Secretary concerned for review of the assessment within 30 days of notification of such penalty.

(C) Any person having an interest which is or may be adversely affected by a decision made by the Secretary or the Secretary of Agriculture under section 203, 204, 205, 206, 209, or 404(a)(3) may apply to such Secretary for review of the decision within 30 days after it is made.

(2) The Secretary concerned shall provide an opportunity for a public hearing at the request of any party to the proceeding as specified in paragraph (1). The filing of an application for review under this subsection shall not operate as a stay of any order or notice issued under section 407.

(3) For any review proceeding under this subsection, the Secretary concerned shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying or terminating the notice, order or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under section 407, the Secretary concerned shall issue the written decision within 30 days of the receipt of the application for review or within 30 days after the conclusion of any hearing referred to in paragraph (2), whichever is later, unless temporary relief has been granted by the Secretary concerned under paragraph (4).

(4) Pending completion of any review proceedings under this subsection, the applicant may file with the Secretary, or for National Forest System lands the Secretary of Agriculture, a written request that the Secretary grant temporary relief from any order issued under section 407 together with a detailed statement giving reasons for such relief. The Secretary concerned shall expeditiously issue an order or decision granting or denying such relief. The Secretary concerned may grant such relief under such conditions as he may prescribe only if such relief shall not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights under section 405.

(b) JUDICIAL REVIEW.—(1) Any final action by the Secretaries of the Interior and Agriculture in promulgating regulations to implement this Act, or any other final actions constituting rulemaking to implement this Act, shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or any person who may be

adversely affected by the action of the Secretaries.

(2) Final agency action under this Act, including such final action on those matters described under subsection (a), shall be subject to judicial review in accordance with paragraph (4) and pursuant to 28 U.S.C. 1391 of the United States Code on or before 60 days from the date of such final action. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights under section 405 (relating to citizens suits).

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

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

(c) COSTS.—Whenever a proceeding occurs under subsection (a) or (b), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or Secretaries concerned or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, in the case of judicial review, or the Secretary or Secretaries concerned in the case of administrative proceedings, deems proper if it is determined that such party prevailed in whole or in part, achieving some success on the merits, and that such party made a substantial contribution to a full and fair determination of the issues.

#### SEC. 407. ENFORCEMENT.

(a) ORDERS.—(1) If the Secretary, or for National Forest System lands the Secretary of Agriculture, or an authorized representative of such Secretary, determines that any person is in violation of any surface management or monitoring requirement, such Secretary or authorized representative shall issue to such person a notice of violation describing the violation and the corrective measures to be taken. The Secretary concerned, or the authorized representative of such Secretary, shall provide such person with a period of time not to exceed 30 days to abate the violation. Such period of time may be extended by the Secretary concerned upon a showing of good cause by such person. If, upon the expiration of time provided for such abatement, the Secretary concerned, or the authorized representative of such Secretary, finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) If the Secretary concerned, or the authorized representative of the Secretary concerned, determines that any condition or practice exists, or that any person is in violation of any surface management or monitoring requirement, and such condition, practice or violation is causing, or can reasonably be expected to cause—

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

(B) significant, imminent environmental harm to land, air, water, fish or wildlife resources; such Secretary or authorized representative shall immediately order a cessation of min-

eral activities or the portion thereof relevant to the condition, practice or violation.

(3)(A) A cessation order pursuant to paragraphs (1) or (2) shall remain in effect until such Secretary, or authorized representative, determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order. The Secretary concerned shall require appropriate financial assurances to ensure that the abatement obligations are met.

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

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A) the required abatement has not occurred the Secretary concerned shall take such alternative enforcement action against the claimholder or operator (or any person who controls the claimholder or operator) as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action may include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement. Nothing in this paragraph shall preclude the Secretary, or for National Forest System lands the Secretary of Agriculture, from taking alternative enforcement action prior to the expiration of 30 days.

(5) If a claimholder or operator (or any person who controls the claimholder or operator) fails to abate a violation or defaults on the terms of the permit, the Secretary, or for National Forest System lands the Secretary of Agriculture, shall forfeit the financial assurance for the plan as necessary to ensure abatement and reclamation under this Act. The Secretary concerned may prescribe conditions under which a surety may perform reclamation in accordance with the approved plan in lieu of forfeiture.

(6) The Secretary, or for National Forest System lands the Secretary of Agriculture, shall not cause forfeiture of the financial assurance while administrative or judicial review is pending.

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

(b) COMPLIANCE.—The Secretary, or for National Forest System lands the Secretary of Agriculture, may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, or any other appropriate enforcement order, including the imposition of civil penalties, in the district court of the United States for the district in which the mineral activities are located whenever a person—

(1) violates, fails or refuses to comply with any order issued by the Secretary concerned under subsection (a); or

(2) interferes with, hinders or delays the Secretary concerned in carrying out an inspection under section 404.

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

(c) DELEGATION.—Notwithstanding any other provision of law, the Secretary may utilize personnel of the Office of Surface Mining Reclamation and Enforcement to ensure compliance with the requirements of this Act.

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

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

(3) Whenever a corporation is in violation of a surface management requirement or fails or refuses to comply with an order issued under subsection (a), any director, officer or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same penalties as may be imposed upon the person referred to in paragraph (1).

(e) SUSPENSIONS OR REVOCATIONS.—The Secretary, or for National Forest System lands the Secretary of Agriculture, may suspend or revoke a permit issued under title II, in whole or in part, if the operator or person conducting mineral activities—

(1) knowingly made or knowingly makes any false, inaccurate, or misleading material statement in any mining claim, notice of location, application, record, report, plan, or other document filed or required to be maintained under this Act;

(2) fails to abate a violation covered by a cessation order issued under subsection (a);

(3) fails to comply with an order of the Secretary concerned;

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

(5) fails to maintain an adequate financial assurance under section 206;

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

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

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

(1) makes any false material statement, representation, or certification in, or omits or conceals material information from, or unlawfully alters, any mining claim, notice of location, application, record, report, plan, or other documents filed or required to be maintained under this Act; or

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

shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(g) KNOWING VIOLATIONS.—Any person who knowingly—

(1) engages in mineral activities without a permit required under title II, or

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

shall upon conviction be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. If a conviction of a person is for a violation committed after the first conviction of such person under this paragraph, punishment shall be a fine of not less than \$10,000 per day of violation, or by imprisonment of not more than 6 years, or both.

(h) FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.—(1) Any person who fails to comply with the requirements of section 306 or any regulation or order issued to implement section 306 shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to the same extent as if the claim located or converted under this Act were a lease under that Act.

(2) Any person who knowingly and willfully commits an act for which a civil penalty is provided in paragraph (1) shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 2 years, or both.

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

#### SEC. 408. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—The provisions of this Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

(b) REGULATIONS.—The Secretary and the Secretary of Agriculture may issue such regulations as may be necessary under this Act. The regulations implementing title II and the provisions of title IV which affect United States Forest Service shall be joint regulations issued by both Secretaries.

(c) NOTICE.—Within 180 days after the date of enactment of this Act, the Secretary shall give notice to holders of mining claims and mill sites maintained under the general mining laws as to the requirements of sections 104, 105, and 106.

#### Subtitle B—Miscellaneous Provisions

#### SEC. 411. TRANSITIONAL RULES; SURFACE MANAGEMENT REQUIREMENTS.

(a) NEW CLAIMS.—Notwithstanding any other provision of law, any mining claim for a locatable mineral on lands subject to this Act located after the date of enactment of this Act shall be subject to the requirements of title II.

(b) PREEXISTING CLAIMS.—(1) Notwithstanding any other provision of law, any unpatented mining claim or mill site located under the general mining laws before the date of enactment of this Act for which a plan of operation has not been approved or a notice filed prior to the date of enactment shall upon the effective date of this Act, be subject to the requirements of title II, except as provided in paragraphs (2) and (3).

(2)(A) If a plan of operations had been approved for mineral activities on any claim or site referred to in paragraph (1) prior to the date of enactment of this Act, for a period of 5 years after the effective date of this Act mineral activities at such claim or site shall be subject to such plan of operations (or a modification or amendment thereto prepared in accordance with the provisions of law applicable prior to the enactment of this Act). During such 5-year period, modifications of, or amendments to, any such plan may be made in accordance with the provisions of law applicable prior to the enactment of this Act if such modifications or amendments are

deemed minor by the Secretary concerned. After such 5-year period the requirements of title II shall apply, subject to the limitations of section 209. In order to meet the requirements of title II, the person conducting mineral activities under such plan of operations (or modified or amended plan) shall apply for a modification under section 203(f) and 204(f) no later than 3 years after the date of enactment of this Act. For purposes of this paragraph, any modification or amendment which extends the area covered by the plan (except for incidental boundary revisions) or which significantly increases the risk of adverse effects on the environment shall not be subject to this paragraph and shall be subject to other provisions of this Act.

(B) During the 5-year period referred to in subparagraph (A) the provisions of section 404 (relating to inspection and monitoring) and section 407 (relating to enforcement) shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(C) Where an application for modification or amendment of a plan of operations referred to in subparagraph (A) has been timely submitted and an approved plan expires prior to Secretarial action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(3)(A) If a substantially complete application for approval of a plan of operations or for a modification of, or amendment to, a plan of operations had been submitted by November 3, 1993 and either a scoping document or an Environmental Assessment prepared for purposes of compliance with the National Environmental Policy Act of 1969 had been published with respect to such plan, modification, or amendment before the date of the enactment of this Act but the submitted plan of operations or modification or amendment had not been approved for mineral activities on any claim or site referred to in paragraph (1) prior to such date of enactment, for a period of 5 years after the effective date of this Act mineral activities at such claim or site shall be subject to the provisions of law applicable prior to the enactment of this Act. During such 5-year period, subsequent modifications of, or amendments to, any such plan may be made in accordance with the provisions of law applicable prior to the enactment of this Act if such subsequent modifications or amendments are deemed minor by the Secretary concerned. After such 5-year period, the requirements of title II shall apply, subject to the limitations of section 209. For purposes of this paragraph, any subsequent modification or amendment which extends the area covered by the plan (except for incidental boundary revisions) or which significantly increases the risk of adverse effects on the environment shall not be subject to this paragraph and shall be subject to other provisions of this Act.

(B) In order to meet the requirements of title II, the person conducting mineral activities under a plan of operations (or modified or amended plan referred to in subparagraph (A)) shall apply for a modification under section 203(f) and 204(f) no later than 3 years after the date of enactment of this Act. During such 5-year period the provisions of section 404 (relating to inspection and monitoring) and section 407 (relating to enforcement) shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(C) Where an application for modification or amendment of a plan of operations referred to in subparagraph (A) has been timely submitted and an approved plan expires prior to Secretarial action on the applica-

tion, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(4) If a notice of intent had been filed with the authorized officer in the applicable office of the Bureau of Land Management or the United States Forest Service (as provided for in the regulations of the Secretary of the Interior or the Secretary of Agriculture, respectively, in effect prior to the date of enactment of this Act) prior to the date of enactment of this Act, mineral activities may continue under such notice or notice of intent for a period of 2 years after the effective date of this Act, after which time the requirements of title II shall apply, subject to the limitations of section 209(d)(2). In order to meet the requirements of title II, the person conducting mineral activities under such notice or notice of intent must apply for a permit under section 203 or 204 no later than 18 months after the effective date of this Act, unless such mineral activities are conducted pursuant to section 202(b). During such 2-year period the provisions of section 404 (relating to inspection and monitoring) and 407 (relating to enforcement) shall apply on the basis of the surface management requirements applicable to such notices prior to the effective date of this Act.

#### SEC. 412. CLAIMS SUBJECT TO SPECIAL RULES.

(a) CERTAIN CLAIMS NOT CONVERTED.—Notwithstanding any other provision of law, except as provided under subsection (c), an unpatented mining claim referred to in section 37 of the Mineral Leasing Act (30 U.S.C. 193) shall not be converted under section 104 of this Act until the Secretary determines that the claim was valid on the date of enactment of the Mineral Leasing Act of 1920 and has been maintained in compliance with the general mining laws.

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

(c) OIL SHALE CLAIMS.—(1) The provisions of section 411 shall apply to oil shale claims referred to in section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102-486).

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

(A) Strike "as prescribed by the Secretary".

(B) Insert the following before the period: "in the same manner as if such claims were subject to title II of the Mineral Exploration and Development Act of 1993".

#### SEC. 413. PURCHASING POWER ADJUSTMENT.

The Secretary shall adjust all location fees, claim maintenance rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar every 10 years following the date of enactment of this Act, employing the Consumer Price Index for all-urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

#### SEC. 414. SAVINGS CLAUSE.

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regu-

lation, order or land use plan, in effect prior to the date of enactment of this Act that prohibits or restricts the application of the general mining laws, including laws that provide for special management criteria for operations under the general mining laws as in effect prior to the date of enactment of this Act, to the extent such laws provide environmental protection greater than required under this Act, and any such prior law shall remain in force and effect with respect to claims located (or proposed to be located) or converted under this Act. Nothing in this Act shall be construed as applying to or limiting mineral investigations, studies, or other mineral activities conducted by any Federal or State agency acting in its governmental capacity pursuant to other authority. Nothing in this Act shall affect or limit any assessment, investigation, evaluation or listing pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or the Solid Waste Disposal Act.

(b) EFFECT ON OTHER FEDERAL LAWS.—The provisions of this Act shall supersede the general mining laws, but, except for the general mining laws, nothing in this Act shall be construed as superseding, modifying, amending or repealing any provision of Federal law not expressly superseded, modified, amended or repealed by this Act. Nothing in this Act shall be construed as altering, affecting, amending, modifying, or changing, directly or indirectly, any law which refers to and provides authorities or responsibilities for, or is administered by, the Environmental Protection Agency or the Administrator of the Environmental Protection Agency, including the Federal Water Pollution Control Act, title XIV of the Public Health Service Act (the Safe Drinking Water Act), the Clean Air Act, the Pollution Prevention Act of 1990, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Federal Food, Drug, and Cosmetic Act, the Motor Vehicle Information and Cost Savings Act, the Federal Hazardous Substances Act, the Atomic Energy Act, the Noise Control Act of 1972, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Ocean Dumping Act, the Environmental Research, Development, and Demonstration Authorization Act, the Pollution Prosecution Act of 1990, and the Federal Facilities Compliance Act of 1992, or any statute containing amendment to any of such Acts. Nothing in this Act shall be construed as modifying or affecting any provision of the Native American Graves Protection and Repatriation Act (Public Law 101-601) or any provision of the American Indian Religious Freedom Act (42 U.S.C. 1996).

(c) PROTECTION OF CONSERVATION AREAS.—In order to protect the resources and values of National Conservation System units, the Secretary, as appropriate, shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities within the boundaries of such units that could have an adverse impact on the resources or values for which such units were established.

#### SEC. 415. AVAILABILITY OF PUBLIC RECORDS.

Copies of records, reports, inspection materials or information obtained by the Secretary or the Secretary of Agriculture under this Act shall be made immediately available to the public, consistent with section 552 of title 5 of the United States Code, in central and sufficient locations in the county, multi county, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities.

**SEC. 416. MISCELLANEOUS POWERS.**

(a) IN GENERAL.—In carrying out his or her duties under this Act, the Secretary, or for National Forest System lands the Secretary of Agriculture, may conduct any investigation, inspection, or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties.

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

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

(2) Administer oaths.

(3) Require by subpoena the attendance and testimony of witnesses and the production of all books, papers, records, documents, matter, and materials, as such Secretary may request.

(4) Order testimony to be taken by deposition before any person who is designated by such Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection.

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

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

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

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

(2) may at reasonable times, and without delay, have access to any copy any records, inspect any monitoring equipment or method of operation required under this Act;

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

(4) may, on any mining claim located or converted under this Act, and without advance notice, stop and inspect any motorized form of transportation that he has probable cause to believe is carrying locatable minerals, concentrates, or products derived therefrom from a claim site for the purpose of determining whether the operator of such vehicle has documentation related to such locatable minerals, concentrates, or products derived therefrom as required by law, if such documentation is required under this Act; and

(5) may, if accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone may stop and inspect any motorized form of transportation which is not on a claim site if he has

probable cause to believe such vehicle is carrying locatable minerals, concentrates, or products derived therefrom from a claim site on Federal lands or allocated to such claim site. Such inspection shall be for the purpose of determining whether the operator of such vehicle has the documentation required by law, if such documentation is required under this Act.

**SEC. 417. LIMITATION ON PATENT ISSUANCE.**

(a) MINING CLAIMS.—After January 5, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws or under this Act unless the Secretary determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before January 5, 1993; and

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

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

(b) MILL SITES.—After January 5, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws unless the Secretary determines that for the mill site concerned—

(1) a patent application for such land was filed with the Secretary on or before January 5, 1993; and

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

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

**SEC. 418. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.**

The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), commonly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), shall apply to all mining claims located or converted under this Act.

**SEC. 419. MINERAL MATERIALS.**

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

(1) Insert "(a)" before the first sentence.

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

(3) Strike "or cinders" and insert in lieu thereof "cinders, and clay".

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

"(b)(1) Subject to valid existing rights, after the date of enactment of the Mineral Exploration and Development Act of 1993, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal

only under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of enactment of the Mineral Exploration and Development Act of 1993, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to the date of enactment of the Mineral Exploration and Development Act of 1993 and that such claim continues to be valid under this Act."

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

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

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

(d) SHORT TITLES.—

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

"SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'."

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

"SEC. 5. This Act may be cited as the 'Materials Act of 1947'."

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

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

**SEC. 420. APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NONFEDERAL MINERALS ON FEDERAL LANDS.**

The provisions of this Act (including the surface management requirements of title II) shall apply in the same manner and to the same extent to Federal lands used for beneficiation or processing activities for any mineral without regard to whether or not the legal and beneficial title to the mineral is held by the United States. This section applies only to minerals which are locatable minerals or minerals which would be locatable minerals if the legal and beneficial title to such minerals were held by the United States.

**SEC. 421. COMPLIANCE WITH BUY AMERICAN ACT.**

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

**SEC. 308. SENSE OF CONGRESS.**

In the case of any equipment or products purchased with funding provided under this Act, it is the sense of the Congress that such funding should be used to purchase only American-made equipment and products.

**SEC. 309. PROHIBITION OF CONTRACTS.**

If it has been finally determined by a court of Federal agency that any person inten-

tionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or sub-contract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48 of the Code of Federal Regulations.

SEC. 422. SEVERABILITY.

If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 423. AWARD OF COMPENSATION FOR TAKINGS FROM FUND.

To the extent a court of competent jurisdiction, after adjudication, finds that Federal action undertaken pursuant to this Act effects a taking under the Fifth Amendment of the United States Constitution and enters a final judgment against the United States, the court shall award just compensation to the plaintiff, from the fund established under title III, subject to appropriation, together with appropriate reasonable fees and expenses to the extent provided by section 304 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4654(c)). In any case in which the Attorney General effects a settlement of any proceeding brought under section 1346(a)(2) or 1491 of title 28 of the United States Code alleging that any Federal action undertaken pursuant to this Act effects a taking under the Fifth Amendment of the United States Constitution, the Attorney General shall use amounts available in the Fund subject to appropriations to pay any award necessary pursuant to such settlement.

SEC. 424. REPORT TO CONGRESS ON MINING CLAIMS IN THE UNITED STATES HELD BY FOREIGN FIRMS.

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

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

(2) For the purposes of paragraph (1), the term "domestic firm" means a business entity—

(A) that is incorporated or organized in the United States;

(B) that conducts business operations in the United States; and

(C) the assets of which at least 50 percent are held by United States citizens, permanent resident aliens, or other domestic firms.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. CRAPO moved to recommit the bill to the Committee on Natural Resources with instructions to report the bill back to the House promptly with recommendations that will result in no net loss of jobs as measured by existing Department of the Interior economic models.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. TORRES, announced that the nays had it.

Mr. CRAPO objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 148 Nays ..... 270

136.5 [Roll No. 576] YEAS—148

- Allard Archer Armev Bachus (AL) Baker (CA) Baker (LA) Ballenger Barcia Barrett (NE) Bartlett Barton Bateman Bentley Bereuter Bilirakis Bliley Boehner Bonilla Bunning Burton Buyer Callahan Calvert Camp Canady Castle Coble Collins (GA) Combest Cox Crane Crapo Cunningham DeLay Diaz-Balart Doolittle Dornan Dreier Duncan Dunn Emerson Everett Ewing Fields (TX) Fowler Gallegly Gekas Gillmor Gingrich Goodlatte Goodling Goss Grams Hall (TX) Hancock Hansen Hastert Hayes Hefley Herger Hobson Hoekstra Houghton Huffington Hunter Hutchinson Hutto Hyde Inglis Inhofe Istook Johnson, Sam Kasich Kim King Kingston Knollenberg Kolbe Kyl Lazio Leach Levy Lewis (CA) Lewis (FL) Lightfoot Linder Livingston Manzullo McCandless McDunn McHugh McInnis McKeon McMillan Meyers Mica Michel Miller (FL) Montgomery Moorhead Myers Nussle Orton Oxley Packard Parker Paxon Petri Pombro Portman Pryce (OH) Quillen Quinn Ramstad Roberts Rogers Rohrabacher Roth Royce Santorum Schaefer Schiff Sensenbrenner Shaw Shuster Skeen Skelton Smith (MI) Smith (OR) Smith (TX) Solomon Spence Stearns Stenholm Stump Sundquist Talent Tauzin Taylor (MS) Taylor (NC) Thomas (CA) Thomas (WY) Vucanovich Walker Walsh Wolf Young (FL) Zeliff

NAYS—270

- Abercrombie Ackerman Andrews (ME) Andrews (NJ) Andrews (TX) Applegate Baesler Barca Barlow Barrett (WI) Becerra Beilenson Berman Bevill Bilbray Bishop Blackwell Blute Boehlert Bonior Borski Boucher Brewster Brooks Browder Brown (CA) Brown (FL) Brown (OH) Bryant Byrne Cantwell Cardin Carr Clay Clayton Clement Clyburn Coleman Collins (IL) Collins (MI) Condit Conyers Cooper Coppersmith Costello Coyne Cramer Danner Darden de la Garza Deal DeFazio DeLauro Dellums Derrick Deutsch Dickey Dingell Dixon Dooley Durbin Edwards (CA) Edwards (TX) Engel English (AZ) English (OK) Eshoo Evans Farr Fawell Fazio Fields (LA) Filner Fingerhut Fish Flake Foglietta Ford (MI) Frank (MA) Franks (CT) Franks (NJ) Frost Furse Gallo Gajdenson Gephardt Geren

- Gibbons Gilchrist Gilman Glickman Gonzalez Gordon Green Greenwood Gunderson Gutierrez Hall (OH) Hamburg Hamilton Harman Hastings Hefner Hilliard Hinchey Hoagland Hochbrueckner Holden Horn Hoyer Hughes Inslee Jacobs Jefferson Johnson (CT) Johnson (GA) Johnson (SD) Johnson, E.B. Johnston Kanjorski Kaptur Kennedy Kennelly Kildee Kleczka Klein Klug Kopetski Kreidler LaFalce Lambert Lancaster Lantos LaRocco Laughlin Lehman Levin Lewis (GA) Lipinski Lloyd Long Lowey Machtley Maloney Manton Margolies-Mezvinsky Markey Martinez Matsui Mazzoli McCloskey McCurdy McDade McDermott McHale McKinney McNulty Meehan Meek Menendez Mfume Miller (CA) Mineta Minge Mink Moakley Molinari Mollohan Moran Morella Murphy Murtha Nadler Natcher Neal (MA) Neal (NC) Oberstar Obey Olver Ortiz Owens Pallone Pastor Payne (NJ) Payne (VA) Pelosi Penny Peterson (FL) Peterson (MN) Pickett Pickle Pomeroy Porter Poshard Price (NC) Rahall Rangel Ravenel Reed Regula Reynolds Richardson Roemer Ros-Lehtinen Rostenkowski Roukema Rowland Roybal-Allard Rush Sabo Sanders Sangmeister Sarpalius Sawyer Saxton Schenk Schroeder Schumer Scott Serrano Sharp Shays Shepherd Skaggs Slattery Slaughter Smith (IA) Smith (NJ) Snowe Spratt Stark Stokes Strickland Studds Stupak Sweet Swift Synar Tanner Tejada Thompson Thornton Thurman Torkildsen Torres Torricelli Towns Traficant Tucker Unsoeld Upton Valentine Velazquez Vento Visclosky Volkmer Waters Watt Waxman Weldon Wheat Whitten Williams Wise Woolsey Wyden Wynn Yates Zimmer

NOT VOTING—15

- Bacchus (FL) Chapman Clinger Dicks Ford (TN) Grandy Hoke Klink McCrery Ridge Rose Sisisky Washington Wilson Young (AK)

So the motion to recommit with instructions was not agreed to.

The question being put, viva voce,

Will the House pass said bill?

The SPEAKER pro tempore, Mr. TORRES, announced that the nays had it.

Mr. RAHALL demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the { Yeas ..... 316 affirmative ..... Nays ..... 108

136.6 [Roll No. 577] YEAS—316

- Abercrombie Ackerman Andrews (ME) Andrews (NJ) Andrews (TX) Applegate Bacchus (FL) Baesler Barca Barlow Barrett (WI) Becerra Beilenson Bereuter Berman Bevill Bilbray Bilirakis

Bishop  
Blackwell  
Blute  
Boehlert  
Bonior  
Borski  
Boucher  
Brewster  
Brooks  
Browder  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Bryant  
Byrne  
Canady  
Cantwell  
Cardin  
Carr  
Castle  
Clay  
Clayton  
Clement  
Clyburn  
Coleman  
Collins (IL)  
Collins (MI)  
Condit  
Conyers  
Cooper  
Coppersmith  
Costello  
Coyne  
Cramer  
Cunningham  
Danner  
Darden  
de la Garza  
Deal  
DeFazio  
DeLauro  
Dellums  
Derrick  
Deutsch  
Diaz-Balart  
Dickey  
Dingell  
Dixon  
Dooley  
Duncan  
Durbin  
Edwards (CA)  
Edwards (TX)  
Engel  
English (AZ)  
English (OK)  
Eshoo  
Evans  
Farr  
Fawell  
Fazio  
Fields (LA)  
Filner  
Fingerhut  
Fish  
Flake  
Foglietta  
Ford (MI)  
Ford (TN)  
Fowler  
Frank (MA)  
Franks (CT)  
Franks (NJ)  
Frost  
Furse  
Gallegly  
Gallo  
Gejdenson  
Gephardt  
Geren  
Gibbons  
Gilman  
Gingrich  
Glickman  
Gonzalez  
Goodlatte  
Gordon  
Goss  
Grandy  
Green  
Greenwood  
Gunderson  
Gutierrez  
Hall (OH)  
Hall (TX)  
Hamburg  
Hamilton  
Harman  
Hastert  
Hastings

Hefner  
Hilliard  
Hinchey  
Hoagland  
Hobson  
Hochbrueckner  
Holden  
Horn  
Hoyer  
Huffington  
Hughes  
Hutto  
Hyde  
Inslee  
Jacobs  
Jefferson  
Johnson (CT)  
Johnson (GA)  
Johnson (SD)  
Johnson, E.B.  
Johnston  
Kanjorski  
Kaptur  
Kennedy  
Kennelly  
Kildee  
King  
Kleczka  
Klein  
Klug  
Kopetski  
Kreidler  
LaFalce  
Lambert  
Lancaster  
Lantos  
LaRocco  
Laughlin  
Lazio  
Leach  
Lehman  
Levin  
Levy  
Lewis (FL)  
Lewis (GA)  
Lipinski  
Lloyd  
Long  
Lowe  
Machtley  
Maloney  
Mann  
Manton  
Margolies-  
Mezvinsky  
Markey  
Matsui  
Mazzoli  
McCloskey  
McCurdy  
McDade  
McDermott  
McHale  
McKinney  
McMillan  
McNulty  
Meehan  
Meek  
Menendez  
Meyers  
Mfume  
Miller (CA)  
Miller (FL)  
Mineta  
Minge  
Mink  
Moakley  
Mollohan  
Montgomery  
Moorhead  
Moran  
Morella  
Murphy  
Murtha  
Nadler  
Natcher  
Neal (MA)  
Neal (NC)  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Parker  
Pastor  
Payne (NJ)  
Payne (VA)  
Pelosi  
Penny

Peterson (FL)  
Peterson (MN)  
Petri  
Pickett  
Pickle  
Pomeroy  
Porter  
Portman  
Poshard  
Price (NC)  
Pryce (OH)  
Rahall  
Ramstad  
Rangel  
Ravenel  
Reed  
Regula  
Reynolds  
Richardson  
Roemer  
Ros-Lehtinen  
Rostenkowski  
Roth  
Rowkema  
Rowland  
Roybal-Allard  
Rush  
Sabo  
Sanders  
Sangmeister  
Sarpalius  
Sawyer  
Saxton  
Schenk  
Schiff  
Schroeder  
Schumer  
Scott  
Sensenbrenner  
Serrano  
Sharp  
Shaw  
Shays  
Shepherd  
Shuster  
Sisisky  
Skeean  
Lloyd Skelton  
Slattery  
Slaughter  
Smith (IA)  
Smith (NJ)  
Snowe  
Spence  
Spratt  
Stark  
Stearns  
Stokes  
Strickland  
Studds  
Stupak  
Swett  
Swift  
Synar  
Tanner  
Taylor (MS)  
Tejeda  
Thompson  
Thornton  
Thurman  
Torkildsen  
Torres  
Torrice  
Towns  
Traficant  
Tucker  
Unsoeld  
Upton  
Valentine  
Velazquez  
Vento  
Visclosky  
Volkmer  
Washington  
Waters  
Watt  
Waxman  
Weldon  
Wheat  
Whitten  
Williams  
Wise  
Wolf  
Woolsey  
Wyden  
Wynn  
Yates  
Young (FL)  
Zimmer

ALLARD  
ARCHER  
ARMY  
BACHUS (AL)  
BAKER (CA)  
BAKER (LA)  
BALLINGER  
BARCIA  
BARRETT (NE)  
BARTLETT  
BARTON  
BATEMAN  
BENTLEY  
BILEY  
BOEHNER  
BONILLA  
BUNNING  
BURTON  
BUYER  
CALLAHAN  
CALVERT  
CAMP  
COBLE  
COLE (GA)  
COMBEST  
COX  
CRANE  
CRAPPO  
DELAY  
DOOLITTLE  
DORNAN  
DREIER  
DUNN  
EMERSON  
EVERETT  
EWING

Fields (TX)  
Gekas  
Gillmor  
Goodling  
Grams  
Hancock  
Hansen  
Hayes  
Hefley  
Herger  
Hoekstra  
Hoke  
Houghton  
Hunter  
Hutchinson  
Inglis  
Inhofe  
Istook  
Johnson, Sam  
Kasich  
Kim  
Kingston  
Knollenberg  
Kolbe  
Kyl  
Lewis (CA)  
Lightfoot  
Linder  
Livingston  
Manzullo  
McCandless  
McCollum  
McCrery  
McHugh  
McInnis  
McKeon

Mica  
Michel  
Molinari  
Myers  
Nussle  
Orton  
Oxley  
Packard  
Paxon  
Pombo  
Quillen  
Quinn  
Roberts  
Rogers  
Rohrabacher  
Royce  
Santorum  
Schaefer  
Skaggs  
Smith (MI)  
Smith (OR)  
Smith (TX)  
Solomon  
Stenholm  
Stump  
Sundquist  
Talent  
Tauzin  
Taylor (NC)  
Thomas (CA)  
Thomas (WY)  
Vucanovich  
Walker  
Walsh  
Young (AK)  
Zeliff

NOT VOTING—9

Chapman  
Clinger  
Dicks  
Gilcrest  
Klink  
Martinez  
Ridge  
Rose  
Wilson

So the bill was passed.  
A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.  
*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

136.7 PROVIDING FOR THE CONSIDERATION OF H. R. 796

Ms. SLAUGHTER, by direction of the Committee on Rules, called up the following resolution (H. Res. 313):

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the

proponent and an opponent, and shall not be subject to amendment. All points of order against the amendment numbered 4 in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

When said resolution was considered. After debate,

On motion of Ms. SLAUGHTER, the previous question was ordered on the resolution to its adoption or rejection. The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. TORRES, announced that the yeas had it.

Ms. SLAUGHTER objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present, The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 233  
Nays ..... 192

136.8 [Roll No. 578] YEAS—233

Abercrombie  
Ackerman  
Andrews (ME)  
Andrews (NJ)  
Andrews (TX)  
Bacchus (FL)  
Baesler  
Barca  
Barlow  
Barrett (WI)  
Becerra  
Beilenson  
Berman  
Bevill  
Bilbray  
Bishop  
Blackwell  
Boehlert  
Bonior  
Boucher  
Brooks  
Browder  
Brown (FL)  
Brown (OH)  
Bryant  
Byrne  
Cantwell  
Cardin  
Carr  
Castle  
Chapman  
Clay  
Clayton  
Clement  
Clyburn  
Coleman  
Collins (IL)  
Collins (MI)  
Condit  
Conyers  
Cooper  
Coppersmith  
Coyne  
Cramer  
Danner  
Darden  
DeFazio  
DeLauro  
Dellums  
Derrick  
Deutsch

Dingell  
Dixon  
Dooley  
Durbin  
Edwards (CA)  
Edwards (TX)  
Engel  
English (AZ)  
English (OK)  
Eshoo  
Evans  
Ewing  
Farr  
Fazio  
Fields (LA)  
Filner  
Fingerhut  
Flake  
Foglietta  
Ford (MI)  
Ford (TN)  
Frank (MA)  
Franks (CT)  
Frost  
Furse  
Gallo  
Gejdenson  
Gephardt  
Gibbons  
Gilman  
Glickman  
Gonzalez  
Gordon  
Green  
Gutierrez  
Hall (OH)  
Hall (TX)  
Hamburg  
Hamilton  
Harman  
Hastert  
Hastings

Johnson (CT)  
Johnson (GA)  
Johnson (SD)  
Johnson, E. B.  
Johnston  
Kanjorski  
Kennedy  
Kennelly  
Kleczka  
Klein  
Kopetski  
Kreidler  
Lambert  
Lancaster  
Lantos  
LaRocco  
Levin  
Lewis (GA)  
Lloyd  
Long  
Lowe  
Machtley  
Maloney  
Mann  
Margolies-  
Mezvinsky  
Markey  
Martinez  
Matsui  
McCloskey  
McCurdy  
McDermott  
McHale  
McKinney  
Meehan  
Meek  
Menendez  
Meyers  
Mfume  
Miller (CA)  
Mineta  
Minge  
Mink  
Moakley  
Molinari  
Montgomery  
Moran  
Morella  
Murtha  
Nadler

Natcher
Neal (MA)
Neal (NC)
Olver
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Porter
Price (NC)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Snow
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift

Synar
Tanner
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—192

Allard
Applegate
Archer
Armev
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Borski
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Gilchrist
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kyl
LaFalce
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Manton
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Mollohan
Moorhead
Murphy
Myers
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taubin
Tavola
Tennet
Thompson
Trotter
Tucker
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Brown (CA)
Clinger
Dicks
Geren
Kaptur
Rose
Sisisky
Whitten

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

136.9 ACCESS TO CLINICS ENTRANCES

The SPEAKER pro tempore, Mr. TORRES, pursuant to House Resolution 313 and rule XXIII, declared the House resolved into the Committee of the Union for the consideration of the bill (H.R. 796) to assure freedom of access to clinic entrances.

The SPEAKER pro tempore, Mr. TORRES, by unanimous consent, designated Mr. KOPETSKI as Chairman of the Committee of the Whole; and after some time spent therein,

136.10 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. DELAY:

Page 3, line 8, strike the period and insert the following: ‘‘, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.’’

It was decided in the affirmative { Yeas ..... 350 Nays ..... 82

136.11 [Roll No. 579] AYES—350

Ackerman
Allard
Andrews (TX)
Applegate
Archer
Armev
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Callejo
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbir
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrist
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich

Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kieccka
Klein
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Mann
Manton
Manzullo
Markey
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Mollinari
Mollohan
Montgomery
Moorhead
Moran
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swift
Talent
Tanner
Taubin
Tavola
Tennet
Thompson
Trotter
Tucker
Upton
Valentine
Velazquez
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—82

Abercrombie
Andrews (ME)
Bacchus (FL)
Becerra
Blackwell
Boehler
Brooks
Brown (CA)
Brown (FL)
Clay
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
Dellums
Deutsch
Edwards (CA)
Engel
Evans
Filner
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gilman
Gonzalez
Hamburg
Hastings
Hilliard
Hinchev
Horn
Jefferson
Johnston
Kopetski
Kreidler
Lewis (GA)
Long
Maloney
Margolies-
Mezvinsky
Martinez
Matsui
McDermott
McKinney
Meehan
Mineta
Mink
Morella
Nadler
Natcher
Norton (DC)
Olver
Owens
Payne (NJ)
Rangel
Rose
Rush
Sabo
Sanders
Schroeder
Scott
Stark
Stokes
Swett
Synar
Thompson
Thurman
Torres
Torricelli
Towns
Unsoeld
Vento
Visclosky
Washington
Waters
Watt
Waxman
Woolsey
Wyden
Wynn

NOT VOTING—6

Andrews (NJ)
Clinger
Dickey
Dicks
Faleomavaega
Romero-Barcelo
(PR)

So the resolution was agreed to.

So the amendment was agreed to.

After some further time,

136.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. SMITH of New Jersey:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinic Violence and Obstruction Prevention Act of 1993".

SEC. 2. PREVENTION OF VIOLENCE AND OBSTRUCTION AT REPRODUCTIVE HEALTH FACILITIES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

248. Preventing violence and obstruction at reproductive health facilities

(a) PROHIBITED ACTIVITIES.—Whoever—

(1) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person, or attempts to do so, because that person or any other person is lawfully providing or obtaining reproductive health services;

(2) by force or threat of force, intentionally injures, intimidates, or physically obstructs any person who is lawfully engaging in activity protected by the first article of amendment to the Constitution, or attempts to do so—

(A) in or on, or within 500 feet of, a facility lawfully providing reproductive health services; or

(B) in or on, or within 300 feet of, the residence of a person lawfully providing or obtaining reproductive health services; or

(3) intentionally damages or destroys the property of a facility that is providing reproductive health services, or attempts to do so; shall be punished as provided in subsection (b) of this section and shall also be subject to the civil remedy provided in subsection (c) of this section, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) PENALTIES.—Whoever violates subsection (a) of this section shall be fined under this title or imprisoned not more than 1 year, or both, except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) CIVIL ACTIONS.—

(1) RIGHT OF ACTION GENERALLY.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

(2) ACTION BY ATTORNEY GENERAL.—If the Attorney General has reasonable cause to believe that any person, or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, and such conduct raises an issue of general public importance, the Attorney General may commence a civil action and obtain relief under this subsection.

(3) RELIEF.—(A) In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary, or permanent injunctive relief, subject to subparagraph (B), and compensatory damages for each person aggrieved by the violation.

(B) No court may issue a temporary, preliminary, or permanent injunction in any case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully

engaging in activity protected under subsection (a)(1), except—

(i) after hearing the testimony of witnesses in open court in support of the allegations of a complaint made under oath and the testimony offered in opposition thereto, and the granting to opposing parties of the right to cross-examine such witness; and

(ii) after the court has made and filed with the record in the case findings of fact to the effect that—

(I) unlawful acts have been threatened and will be committed, or have been committed and will be continued, unless restrained;

(II) substantial irreparable injury to complainant's person or property will follow;

(III) as to each item of relief granted, greater injury will be inflicted upon complainant by the denial of relief that will be inflicted upon defendants by the granting of relief; and

(IV) complainant has no adequate remedy at law.

No such restraining order or injunction maybe issued on account of any threat or unlawful act except against a person making the threat or committing the unlawful act or authorizing or ratifying the same with actual knowledge thereof. Every restraining order or injunction granted in a case involving or growing out of a demonstration within 500 feet of a facility providing reproductive health services or within 300 feet of the residence of a person lawfully engaging in activity protected under subsection (a)(1) shall include only a prohibition of such specific conduct as may be expressly complained of in the complaint filed in such case and as shall be expressly included in the findings of fact.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit or limit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

(e) NON-PREEMPTION.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

(f) DEFINITIONS.—As used in this section, the following definitions apply:

(1) REPRODUCTIVE HEALTH SERVICES.—The term 'reproductive health services' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system.

(2) FACILITY.—The term 'facility' includes the building or structure in which the facility is located.

(3) PHYSICALLY OBSTRUCTS.—The term 'physically obstructs' means rendering impassable—

(A) ingress or egress, or rendering passage unreasonably difficult; or

(B) public ways or traditional public fora or rendering passage through public ways or traditional public fora unreasonably difficult.

(4) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"248. Preventing violence and obstruction at reproductive health facilities."

It was decided in the negative { Yeas ..... 177 Nays ..... 255

136.13 [Roll No. 580] AYES—177

Table listing names of representatives and their states, organized in three columns. Includes names like Allard, Applegate, Archer, Army, Bachus (AL), Baker (CA), Baker (LA), Ballenger, Barcia, Barrett (NE), Bartlett, Barton, Bateman, Bentley, Bevill, Bilirakis, Bliley, Blute, Boehner, Borski, Browder, Bunning, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Coble, Collins (GA), Combest, Costello, Crane, Crapo, Cunningham, de la Garza, Deal, DeLay, Diaz-Balart, Doolittle, Dornan, Dreier, Duncan, Dunn, Emerson, Everett, Ewing, Fields (TX), Fish, Gallegly, Gekas, Gillmor, Gingrich, Goodlatte, Goodling, Goss, Grams, Hall (OH), etc.

NOES—255

Table listing names of representatives and their states, organized in three columns. Includes names like Abercrombie, Ackerman, Andrews (ME), Andrews (TX), Bacchus (FL), Baesler, Barca, Barlow, Barrett (WI), Becerra, Beilenson, Bereuter, Berman, Bilbray, Bishop, Blackwell, Boehlert, Bonilla, Bonior, Boucher, Brewster, Brooks, Brown (CA), Brown (FL), Brown (OH), Bryant, Byrne, Cantwell, Cardin, Carr, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Collins (MI), Condit, Cooper, Coppersmith, Cox, Coyne, Cramer, Danner, Darden, de Lugo (VI), DeFazio, DeLauro, Dellums, Derrick, Deutsch, Dingell, Dixon, Dooley, Durbin, Edwards (CA), Edwards (TX), Engel, English (AZ), English (OK), Eshoo, Evans, Faleomavaega (AS), Farr, Fawell, Fazio, Fields (LA), Filner, Fingerhut, Flake, Foglietta, Ford (MI), Ford (TN), Fowler, Frank (MA), Franks (CT), Franks (NJ), Frost, Furse, Gallo, Gejdenson, Gephardt, Geren, Gibbons, Gilchrest, Gilman, Glickman, Gonzalez, Gordon, Grandy, Green, Greenwood, Gunderson, Gutierrez, Hamburg, Hamilton, Harman, etc.

Hastings McHale Schroeder
Hefner McKinney Schumer
Hilliard Meehan Scott
Hinchev Meek Serrano
Hoagland Menendez Sharp
Hobson Meyers Shays
Hochbrueckner Mfume Shepherd
Horn Miller (CA) Sisisky
Houghton Mineta Skaggs
Hoyer Minge Slattery
Hughes Mink Slaughter
Inslee Moakley Smith (IA)
Jacobs Molinari Snowe
Jefferson Moran Spratt
Johnson (CT) Morella Stark
Johnson (GA) Nadler Stokes
Johnson (SD) Natcher Strickland
Johnson, E. B. Neal (MA) Studds
Johnston Neal (NC) Sweet
Kaptur Norton (DC) Swift
Kennedy Obey Synar
Kennelly Olver Thomas (CA)
Klecicka Owens Thompson
Klug Pallone Thornton
Kopetski Pastor Thurman
Kreidler Payne (NJ) Torikildsen
Lambert Kopetski Torres
Lancaster Pelosi Torricelli
Lantos Pickett Towns
LaRocco Pomero Underwood (GU)
Laughlin Porter Unsoeld
Lazio Price (NC) Upton
Leach Pryce (OH) Valentine
Lehman Ramstad Velazquez
Levin Rangel Vento
Lewis (GA) Reed Visclosky
Lloyd Reynolds Washington
Long Richardson Waters
Lowe Waxman Watt
Machtley Roemer Wheat
Maloney Rose Whitten
Mann Rostenkowski Williams
Margolies-Roukema Wilson
Mezvinsky Roybal-Allard Wise
Markey Rush Woolsey
Martinez Sabo Wyden
Matsui Sanders Wynn
McCandless Sangmeister Yates
McCloskey Sawyer Zeliff
McCurdy Schenk Zimmer
McDermott Schiff

NOT VOTING—6

Andrews (NJ) Dickey (PR)
Clinger Dicks
Conyers Romero-Barcelo

So the amendment in the nature of a substitute was not agreed to.

The SPEAKER pro tempore, Mr. SKELTON, assumed the Chair.

When Mr. KOPETSKI, Chairman, pursuant to House Resolution 313, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

Mr. WALKER demanded a separate vote on the amendment on page 3, line 8 (the DELAY amendment).

The question being put, viva voce,

Will the House agree to the following amendment on which a separate vote had been demanded?

Page 3, line 8, strike the period and insert the following: ‘, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.’

The SPEAKER pro tempore, Mr. SKELTON, announced that the yeas had it.

Mr. WALKER demanded a recorded vote on agreeing to the amendment, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas ..... 345
Nays ..... 80

136.14

[Roll No. 581]

AYES—345

Ackerman Fields (TX) Livingston
Allard Fingerhut Lloyd
Andrews (TX) Fish Lowey
Applegate Flake Machtley
Archer Foglietta Mann
Armey Fowler Manton
Bachus (AL) Franks (CT) Manzullo
Baesler Franks (NJ) Markey
Baker (CA) Frost Martinez
Baker (LA) Furse Mazzoli
Ballenger Gallegly McCandless
Barca Gallo McCloskey
Barcia Gekas McCollum
Barlow Geren McCrery
Barrett (NE) Gibbons McCurdy
Barrett (WI) Gilchrest McDade
Bartlett Gillmor
Barton Gingrich
Bateman Glickman
Beilenson Goodlatte
Bentley Goodling
Bereuter Gordon
Berman Goss
Bevill Grams
Billbray Grandy
Bilirakis Green
Bishop Greenwood
Bliley Gunderson
Blute Hall (OH)
Boehner Hall (TX)
Bonilla Hamilton
Boniork Hancock
Borski Hansen
Boucher Harman
Brewster Hastert
Browder Hayes
Brown (OH) Hefley
Bryant Hefner
Bunning Herger
Burton Hoagland
Buyer Hobson
Byrne Hochbrueckner
Callahan Hoekstra
Calvert Hoke
Camp Holden
Canady Houghton
Cantwell Hoyer
Cardin Huffington
Carr Hughes
Castle Hunter
Chapman Hutchinson
Clayton Hutto
Clement Hyde
Coble Inglis
Coleman Inhofe
Collins (GA) Inslee
Combest Istook
Condit Jacobs
Cooper Johnson (CT)
Costello Johnson (GA)
Cox Johnson (SD)
Cramer Johnson, E. B.
Crane Johnson, Sam
Crapo Kanjorski
Cunningham Kasich
Danner Kennedy
Darden Kennelly
de la Garza Kildee
Deal Kim
DeFazio King
DeLauro Kingston
DeLay Kleczka
Derrick Klein
Diaz-Balart Klink
Dingell Klug
Dixon Knollenberg
Dooley Kolbe
Doolittle Kyl
Dornan LaFalce
Dreier Lambert
Duncan Lancaster
Dunn Lantos
Durbin LaRocco
Edwards (TX) Laughlin
Emerson Lazio
English (AZ) Leach
English (OK) Lehman
Eshoo Levin
Everett Levy
Ewing Lewis (CA)
Farr Lewis (FL)
Fawell Lightfoot
Fazio Linder
Fields (LA) Lipinski

Schaefer Snowe Torikildsen
Schenk Solomon Torres
Schiff Spence Traficant
Schumer Spratt Tucker
Sensenbrenner Stearns Upton
Serrano Stenholm Valentine
Sharp Strickland Velazquez
Shaw Studds Volkmer
Shays Stump Vucanovich
Shuster Stupak Walker
Sisisky Sundquist Walsh
Skaggs Swift Weldon
Skeen Talent Wheat
Skelton Tanner Whitten
Slattery Tauzin Wilson
Slaughter Taylor (MS) Wise
Smith (IA) Taylor (NC) Wolf
Smith (MI) Tejada Young (AK)
Smith (NJ) Thomas (CA) Young (FL)
Smith (OR) Thomas (WY) Zeliff
Smith (TX) Thornton Zimmer

NOES—80

Abercrombie Gonzalez Payne (NJ)
Andrews (ME) Hamburg Rose
Bacchus (FL) Hastings Rush
Becerra Hilliard Sabo
Blackwell Hinchev Sanders
Boehler Horn Schroeder
Brooks Jefferson Scott
Brown (CA) Johnston Stark
Brown (FL) Kopetski Stokes
Clay Kreidler Sweet
Clyburn Lewis (GA) Synar
Collins (IL) Long Thompson
Collins (MI) Maloney Thurman
Conyers Margolies-Torricelli
Coppersmith Mezvinsky Towns
Coyn Matsui Unsoeld
Dellums McDermott Vento
Deutsch McKinney Visclosky
Edwards (CA) Meehan Washington
Engel Meek Waters
Evans Mineta Watt
Filner Mink Waxman
Ford (MI) Morella Williams
Ford (TN) Nadler Woolsey
Frank (MA) Natcher Wyden
Gejdenson Olver Wynn
Gilman Owens Yates

NOT VOTING—8

Andrews (NJ) Dicks Kaptur
Clinger Gephardt Shepherd
Dickey Gutierrez

So the amendment was agreed to. The following amendment, as amended, was then agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘Freedom of Access to Clinic Entrances Act of 1993’.

SEC. 2. FREEDOM OF ACCESS TO REPRODUCTIVE HEALTH SERVICES.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

‘§ 248. Blocking access to reproductive health services

‘(a) PROHIBITED ACTIVITIES.—Whoever—

‘(1) by force, threat of force, or physical obstruction, intentionally injures, intimidates, or interferes with any person, or attempts to do so, because that person or any other person or class of persons is obtaining or providing reproductive health services; or

‘(2) intentionally damages or destroys the property of a facility, or attempts to do so, because that facility provides reproductive health services;

shall be punished as provided in subsection (b) of this section and also be subject to the civil remedy provided in subsection (c) of this section, except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

‘(b) PENALTIES.—Whoever violates subsection (a) of this section shall—

‘(1) in the case of a first offense, be fined under this title or imprisoned not more than 1 year, or both; and

“(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined under this title or imprisoned not more than 3 years, or both; except that, if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

“(c) CIVIL ACTIONS.—“(1) RIGHT OF ACTION GENERALLY.—Any person who is aggrieved by a violation of subsection (a) of this section may in a civil action obtain relief under this subsection.

“(2) ACTION BY ATTORNEY GENERAL.—If the Attorney General has reasonable cause to believe that any person, or group of persons, is aggrieved by a violation of subsection (a) of this section, the Attorney General may in a civil action obtain relief under this subsection.

“(3) ACTIONS BY STATE ATTORNEYS GENERAL.—If an attorney general of a State has reasonable cause to believe that any person or group of persons is aggrieved by a violation of subsection (a) of this section, that attorney general may in a civil action obtain relief under this subsection.

“(4) RELIEF.—In any action under this subsection, the court may award any appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory and punitive damages for each person aggrieved by the violation. With respect to compensatory damages, the aggrieved person may elect, at any time before the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation. The court may award to the prevailing party, other than the United States, reasonable fees for attorneys and expert witnesses.

“(d) RULES OF CONSTRUCTION.—(1) Nothing in this section shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first article of amendment to the Constitution.

“(2) Nothing in this section shall be construed to interfere with the authority of States to enforce State or local laws regulating the provision of reproductive health services.

“(e) NON-PREEMPTION.—Congress does not intend this section to provide the exclusive remedies with respect to the conduct prohibited by it, nor to preempt the legislation of the States that may provide such remedies.

“(f) DEFINITIONS.—As used in this section, the following definitions apply:

“(1) REPRODUCTIVE HEALTH SERVICES.—The term ‘reproductive health services’ means reproductive health services provided in a hospital, clinic, physician’s office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system.

“(2) FACILITY.—The term ‘facility’ includes the building or structure in which the facility is located.

“(3) PHYSICAL OBSTRUCTION.—The term ‘physical obstruction’ means rendering impassable ingress to or egress from a facility that provides reproductive health services, or rendering passage to or from such facility unreasonably difficult.

“(4) STATE.—The term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“(5) INTIMIDATE.—The term ‘intimidate’ means to place a person in reasonable apprehension of bodily harm to himself or herself or to another.”

SEC. 3. EFFECTIVE DATE.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

“248. Blocking access to reproductive health services.”

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. SENSENBRENNER moved to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 3, beginning on line 7, strike “and also be subject to the civil remedy provided in subsection (c) of this section”.

Page 3, strike line 21 and all that follows through line 24 on page 4.

Redesignate succeeding subsections accordingly.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. SKELTON, announced that the nays had it.

Mr. SENSENBRENNER demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas ..... 182 negative ..... } Nays ..... 246

136.15 [Roll No. 582] AYES—182

- Allard Dornan Kingston
Applegate Dreier Klink
Archer Duncan Knollenberg
Armey Emerson Kolbe
Bachus (AL) Everett Kyl
Baker (CA) Ewing LaFalce
Baker (LA) Fields (TX) Levy
Ballenger Fish Lewis (CA)
Barcia Gallegly Lewis (FL)
Barlow Gekas Lightfoot
Barrett (NE) Gilchrest Linder
Bartlett Gillmor Lipinski
Barton Gingrich Livingston
Bateman Goodlatte Manton
Bentley Goodling Manzullo
Bereuter Goss Mazzoli
Bevill Grams McCandless
Bilirakis Grandy McCollum
Bliley Hall (OH) McCrery
Blute Hall (TX) McDade
Boehner Hamilton McHugh
Bonilla Hancock McKeon
Borski Hansen McMillan
Browder Hastert McNulty
Bunning Hayes Mica
Burton Hefley Michel
Buyer Herger Miller (FL)
Callahan Hoekstra Mollohan
Calvert Hoke Montgomery
Camp Holden Moorhead
Canady Huffington Murphy
Coble Hunter Murtha
Collins (GA) Hutchinson Myers
Combest Hutto Nussle
Costello Hyde Ortiz
Cox Inglis Orton
Crane Inhofe Oxley
Crapo Istook Packard
Cunningham Johnson, Sam Parker
de la Garza Kanjorski Paxon
Deal Kasich Penny
DeLay Kildee Peterson (MN)
Diaz-Balart Kim Petri
Doolittle King Pombo

- Portman Sensenbrenner Tanner
Poshard Shaw Tauzin
Quillen Shuster Taylor (MS)
Quinn Skeen Taylor (NC)
Rahall Skelton Tejeda
Ravenel Smith (MI) Thomas (CA)
Roberts Smith (NJ) Thomas (WY)
Rogers Smith (OR) Valentine
Rohrabacher Smith (TX) Volkmer
Ros-Lehtinen Solomon Vucanovich
Roth Spence Walker
Royce Stearns Walsh
Santorum Stenholm Weldon
Sarpalius Stump Wolf
Saxton Stupak Young (AK)
Schaefer Sundquist Young (FL)
Schiff Talent

NOES—246

- Abercrombie Gibbons Oberstar
Ackerman Gilman Obey
Andrews (ME) Glickman Olver
Andrews (TX) Gonzalez Owens
Bacchus (FL) Gordon Pallone
Baesler Green Pastor
Barca Greenwood Payne (NJ)
Barrett (WI) Gunderson Payne (VA)
Becerra Gutierrez Pelosi
Beilenson Hamburg Peterson (FL)
Berman Harman Pickett
Bilbray Hastings Pickle
Bishop Hefner Pomeroy
Blackwell Hilliard Porter
Boehlert Hinchey Price (NC)
Bonior Hoagland Pryce (OH)
Boucher Hobson Ramstad
Brewster Hochbrueckner Rangel
Brooks Horn Reed
Brown (CA) Houghton Regula
Brown (FL) Hoyer Reynolds
Brown (OH) Hughes Richardson
Bryant Inslee Ridge
Byrne Jacobs Roemer
Cantwell Jefferson Rose
Cardin Johnson (GA) Rostenkowski
Carr Johnson (SD) Roukema
Castle Johnson, E. B. Rowland
Chapman Johnston Roybal-Allard
Clay Kaptur
Clayton Kennedy Rush
Clement Kennelly Sabo
Clyburn Kleczka Sanders
Coleman Klein Sangmeister
Collins (IL) Klug Sawyer
Collins (MI) Kopetski Schenk
Condit Kreidler Schroeder
Conyers Lambert Schumer
Cooper Lancaster Scott
Coppersmith Lantos Serrano
Coyne LaRocco Sharp
Cramer Laughlin Shays
Danner Lazio Shepherd
Darden Leach Sisisky
DeFazio Lehman Skaggs
DeLauro Levin Slattery
Dellums Lewis (GA) Slaughter
Derrick Lloyd Smith (IA)
Deutsch Long Snow
Dingell Lowey Spratt
Dixon Machtley Stark
Dooley Maloney Stokes
Dunn Mann Strickland
Durbin Margolies-Studds
Edwards (CA) Mezvinsky Swett
Edwards (TX) Markey Swift
Engel Martinez Synar
English (AZ) Matsui Thompson
English (OK) McCloskey Thornton
Eshoo McCurdy Thurman
Evans McDermott Torkildsen
Farr McHale Torres
Fawell McInnis Torricelli
Fazio McKinney Towns
Fields (LA) Meehan Traficant
Filner Meek Tucker
Fingerhut Menendez Unsoeld
Flake Meyers Upton
Foglietta Mfume Velazquez
Ford (MI) Miller (CA) Vento
Ford (TN) Mineta Visclosky
Fowler Minge Washington
Frank (MA) Mink Waters
Franks (CT) Moakley Watt
Franks (NJ) Molinari Williams
Frost Moran Waxman
Furse Morella Wheat
Gallo Nadler Whitten
Gejdenson Natcher Williams
Gephardt Neal (MA) Wilson
Geren Neal (NC) Wise

Woolsey  
Wyden

Wynn  
Yates

Zeliff  
Zimmer

## NOT VOTING—5

Andrews (NJ)  
Clinger

Dickey  
Dicks

Johnson (CT)

So the motion to recommit with instructions was not agreed to.

The question being put, *viva voce*,  
Will the House pass said bill?

The SPEAKER pro tempore, Mr. SKELTON, announced that the yeas had it.

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

By unanimous consent, the title was amended so as to read: "An Act to amend title 18, United States Code, to assure freedom of access to reproductive services."

*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

¶136.16 ORDER OF BUSINESS—  
CONSIDERATION OF CONFERENCE  
REPORT ON H.R. 2230

On motion of Mr. GLICKMAN, by unanimous consent,

*Ordered*, That, notwithstanding the provisions of clause 2 of rule XXVIII, it may be in order on Friday, November 19, or Saturday, November 20, 1993, for the House to consider the conference report on the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes; and all points of order against said conference report and its consideration are hereby waived, and said conference report shall be considered as read when called up.

¶136.17 LEASING OF NAVAL VESSELS

On motion of Mr. HAMILTON, by unanimous consent, the Committee on Foreign Affairs was discharged from further consideration of the bill (H.R. 3471) to authorize the leasing of naval vessels to certain foreign countries.

When said bill was considered, read twice, ordered to be engrossed and read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby the bill was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said bill.

¶136.18 MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

¶136.19 MIDDLE EAST PEACE  
FACILITATION

On motion of Mr. LANTOS, by unanimous consent, the bill of the Senate (S. 1667) to extend authorities under the Middle East Peace Facilitation Act of 1993 by six months; was taken from the Speaker's table.

When said bill was considered, read twice, ordered to be read a third time,

was read a third time by title, and passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶136.20 NATIONAL LAW ENFORCEMENT  
TRAINING WEEK

On motion of Ms. BYRNE, by unanimous consent, the Committee on Post Office and Civil Service was discharged from further consideration of the joint resolution of the Senate (S.J. Res. 75) designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week".

When said joint resolution was considered, read twice, ordered to be read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶136.21 RELIGIOUS FREEDOM DAY

On motion of Ms. BYRNE, by unanimous consent, the Committee on Post Office and Civil Service was discharged from further consideration of the joint resolution (H.J. Res. 216) designating January 16, 1994, as "Religious Freedom Day".

When said joint resolution was considered, read twice, ordered to be engrossed and read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said joint resolution.

¶136.22 NATIONAL HOME CARE WEEK

On motion of Ms. BYRNE, by unanimous consent, the Committee on Post Office and Civil Service was discharged from further consideration of the joint resolution of the Senate (S.J. Res. 55) to designate the periods commencing on November 20, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week".

When said joint resolution was considered, read twice, ordered to be read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶136.23 NATIONAL DRUNK AND DRUGGED  
DRIVING PREVENTION MONTH

On motion of Ms. BYRNE, by unanimous consent, the Committee on Post Office and Civil Service was discharged from further consideration of the joint resolution of the Senate (S.J. Res. 122)

designating December 1993 as "National Drunk and Drugged Driving Prevention Month".

When said joint resolution was considered, read twice, ordered to be read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶136.24 NATIONAL HOSPICE MONTH

On motion of Ms. BYRNE, by unanimous consent, the Committee on Post Office and Civil Service was discharged from further consideration of the joint resolution (H.J. Res. 159) to designate the month of November 1993 and 1994 as "National Hospice Month".

When said joint resolution was considered, read twice, ordered to be engrossed and read a third time, was read a third time by title, and passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said joint resolution.

¶136.25 MESSAGE FROM THE  
PRESIDENT—U.S. PARTICIPATION IN  
THE U.N.

The SPEAKER pro tempore, Mr. BARCA, laid before the House a message from the President, which was read as follows:

*To the Congress of the United States:*

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1992. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress; 22 U.S.C. 287b).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 18, 1993.*

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on Foreign Affairs.

¶136.26 SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 986. An Act to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes; to the Committee on Natural Resources.

¶136.27 ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2401. An Act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe

personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 2677. An Act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building; and

H.R. 3341. An Act to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor.

#### ¶136.28 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. ROMERO-BARCELO, for today.

And then,

#### ¶136.29 ADJOURNMENT

On motion of Ms. NORTON, at 10 o'clock and 40 minutes p.m., the House adjourned.

#### ¶136.30 REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROWN of California: Committee on Science, Space, and Technology. H.R. 1994. A bill to authorize appropriations for environmental research, development, and demonstration for fiscal year 1994, and for other purposes; with amendments (Rept. No. 103-376). Referred to the Committee of the Whole House on the State of the Union.

Mr. GLICKMAN: Committee of Conference. Conference report on H.R. 2330. A bill to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 103-377). Ordered to be printed.

#### ¶136.31 PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT:

H.R. 3529. A bill to establish the President's Total Environmental Quality Award and the National Environmentally Sound Technology Award; to the Committee on Science, Space, and Technology.

H.R. 3530. A bill to provide for the use of Federal facilities to demonstrate environmental technologies; to the Committee on Science, Space, and Technology.

H.R. 3531. A bill to incorporate environmentally sound principles into certain ongoing programs; to the Committee on Science, Space, and Technology.

By Mr. BOUCHER (for himself, Mr. BROWN of California, and Mr. BOEHLERT):

H.R. 3532. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resources activities, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries; Science, Space, and Technology; Foreign Affairs; and Natural Resources.

By Mr. ANDREWS of Texas:

H.R. 3533. A bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself and Mr. COX):

H.R. 3534. A bill to amend the Export Administration Act of 1979 with respect to export controls on computers; to the Committee on Foreign Affairs.

By Mr. GENE GREEN of Texas (for himself and Mr. DEUTSCH, Mrs. MINK, Mr. FROST, Mrs. THURMAN, and Mr. BECERRA):

H.R. 3535. A bill to require the Secretary of Education to permit student loan borrowers to defer repayment during periods for which the borrower or a spouse is eligible for leave under the Family and Medical Leave Act of 1993; to the Committee on Education and Labor.

By Mr. KLEIN:

H.R. 3536. A bill to provide financial assistance for technology adaptation to promote exports; jointly, to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology.

By Mr. MANTON:

H.R. 3537. A bill to amend title 18, United States Code, to impose mandatory prison terms for possession or use of a firearm or a destructive device during conduct constituting a crime of violence or a drug trafficking crime under State law; to the Committee on the Judiciary.

By Ms. MCKINNEY:

H.R. 3538. A bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.S. Register of Conventional Arms; to the Committee on Foreign Affairs.

By Mr. MENENDEZ:

H.R. 3539. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 3540. A bill to coordinate the life-cycle assessment activities and resources of the Federal Government relating to environmental technologies; to the Committee on Science, Space, and Technology.

By Mr. NEAL of Massachusetts (for himself and Mr. MOAKLEY):

H.R. 3541. A bill to provide for the duty-free entry of methanol produced aboard U.S. vessels on the high seas or in foreign waters; to the Committee on Ways and Means.

By Mr. SCHUMER:

H.R. 3542. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of certain particularly dangerous bullets; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. SWIFT, Mr. MOORHEAD, Mr. OXLEY, Mr. SHARP, Mr. BLILEY, Mr. WYDEN, Mr. SCHAEFER, Mr. RICHARDSON, Mr. HASTERT, Mr. BOUCHER, Mr. UPTON, Mr. TOWNS, Mr. GILLMOR, Mr. PALLONE, Mr. WASHINGTON, Mr. KREIDLER, and Ms. MARGOLIES-MEZVINSKY):

H.J. Res. 294. Joint resolution to express appreciation to W. Graham Claytor, Jr., for a lifetime of dedicated and inspired service to the Nation; to the Committee on Energy and Commerce.

By Mr. GILMAN (for himself, Mr. ROHRBACHER, Mr. ROTH, Mr. PORTER, Mr. FALEOMAVAEGA, and Mr. LANTOS):

H.J. Res. 295. Joint resolution expressing the sense of the Congress that the United States should not establish diplomatic relations with the Government of the Socialist Republic of Vietnam until that government abides by internationally accepted standards of religious liberty; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H.J. Res. 296. Joint resolution designating March 21, 1994, as "National Single Parent Day"; to the Committee on Post Office and Civil Service.

By Mrs. VUCANOVICH:

H. Res. 315. Resolution expressing the sense of the House of Representatives that previously authorized construction to improve medical facilities administered by the Secretary of Veterans Affairs should not be delayed by the national health care reform debate; to the Committee on Veterans' Affairs.

#### ¶136.32 PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 3543. A bill for the relief of Wolfgang Dietrich Hofman; to the Committee on the Judiciary.

By Mr. KASICH:

H.R. 3544. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Mandiran*; to the Committee on Merchant Marine and Fisheries.

#### ¶136.33 ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 84: Mr. ROSE.

H.R. 214: Ms. DUNN.

H.R. 216: Mr. ZELIFF and Mr. SCHIFF.

H.R. 301: Mr. DOOLITTLE.

H.R. 302: Ms. FURSE.

H.R. 304: Ms. MARGOLIES-MEZVINSKY.

H.R. 324: Ms. MARGOLIES-MEZVINSKY.

H.R. 425: Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. ROMERO-BARCELO, Mrs. SCHROEDER, and Mr. WISE.

H.R. 426: Mr. McDERMOTT.

H.R. 427: Mr. BEREUTER, Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. NEAL of North Carolina, Mr. ROMERO-BARCELO, Mrs. SCHROEDER, and Mr. WISE.

H.R. 436: Mr. PAYNE of New Jersey, Mr. QUINN, Mr. DARDEN, Mr. JOHNSON of Georgia, Mrs. LLOYD, Mr. LIPINSKI, and Mr. ORTIZ.

H.R. 439: Ms. MARGOLIES-MEZVINSKY.

H.R. 441: Mr. KNOLLENBERG, Mr. HOEKSTRA, and Mr. GOODLATTE.

H.R. 465: Mr. SCHIFF.

H.R. 466: Ms. LONG.

H.R. 502: Mr. KLUG and Mr. BONILLA.

H.R. 702: Mr. PICKETT.

H.R. 711: Ms. MARGOLIES-MEZVINSKY.

H.R. 723: Mr. JACOBS.

H.R. 824: Mr. QUINN.

H.R. 883: Mr. ROYCE, Ms. DUNN, and Mr. HOEKSTRA.

H.R. 911: Mr. LEWIS of Florida.

H.R. 998: Mr. HOBSON.

H.R. 999: Mr. GOODLATTE.

H.R. 1126: Mrs. VUCANOVICH.

H.R. 1167: Mr. KLUG.

H.R. 1168: Mr. KLUG, Mr. SCHIFF, and Mr. WELDON.

H.R. 1182: Mr. LIPINSKI.

H.R. 1295: Mr. MANZULLO, Mr. ORTIZ, Mr. OBERSTAR, and Ms. LAMBERT.

H.R. 1482: Mr. ZIMMER.

H.R. 1483: Mr. ZIMMER.

H.R. 1486: Mr. ZIMMER.

H.R. 1487: Mr. KLUG, Mr. ZIMMER, and Mr. BROWN of Ohio.

H.R. 1504: Mr. DELAY, Mr. BOEHNER, Mr. BEREUTER, and Mr. MURPHY.

H.R. 1552: Mr. SANTORUM and Mr. GALLO.

H.R. 1608: Mr. STRICKLAND, Mr. GREENWOOD, and Mr. LEWIS of Florida.

H.R. 1620: Mr. HOBSON.  
 H.R. 1763: Ms. LAMBERT.  
 H.R. 1840: Mr. BEREUTER.  
 H.R. 1857: Mr. DOOLITTLE.  
 H.R. 1858: Mr. ZIMMER.  
 H.R. 1897: Mr. HOCHBRUECKNER.  
 H.R. 1921: Mr. ZELIFF.  
 H.R. 2012: Mr. CRAMER, Mr. GEJDENSON, Mr. BACCHUS of Florida, Mr. GIBBONS, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mr. GUTIERREZ, Mr. ROSTENKOWSKI, Mr. CLAY, Mr. ENGEL, Mrs. MALONEY, Mr. OWENS, Mr. KOPETSKI, Mr. REED, Mr. EDWARDS of Texas, and Mr. MYERS of Indiana.  
 H.R. 2043: Ms. MARGOLIES-MEZVINSKY.  
 H.R. 2119: Mr. STARK.  
 H.R. 2135: Mr. INHOFE.  
 H.R. 2227: Ms. LAMBERT.  
 H.R. 2241: Mr. GEJDENSON.  
 H.R. 2292: Mr. BROWN of California.  
 H.R. 2418: Mr. HANSEN.  
 H.R. 2438: Ms. LAMBERT.  
 H.R. 2591: Ms. VELÁZQUEZ.  
 H.R. 2599: Mr. UNDERWOOD, Mr. KLUG, and Mr. ACKERMAN.  
 H.R. 2641: Mr. CLYBURN, Mr. KILDEE, Mr. CHAPMAN, and Mr. ENGEL.  
 H.R. 2788: Mrs. MINK.  
 H.R. 2803: Mr. FLAKE.  
 H.R. 2873: Mr. BACHUS of Alabama, Mr. STENHOLM, Mrs. MEEK, Mr. DERRICK, Mr. MINGE, Mr. TANNER, Ms. DUNN, Mr. CALVERT, Mr. VOLKMER, Ms. ROS-LEHTINEN, and Mr. TORRICELLI.  
 H.R. 2913: Mr. MICA, Mr. KINGSTON, Mr. STUMP, Mr. PORTER, Mr. YOUNG of Alaska, and Mr. CASTLE.  
 H.R. 2971: Mr. ENGEL.  
 H.R. 3024: Mr. EVERETT.  
 H.R. 3030: Mr. DELAY.  
 H.R. 3097: Mrs. SCHROEDER and Mr. LIPINSKI.  
 H.R. 3183: Mr. BATEMAN.  
 H.R. 3227: Mr. CARDIN, Mr. SCHUMER, Mr. GEKAS, Mr. MONTGOMERY, Mr. UNDERWOOD, Mr. TOWNS, Mr. EMERSON, Mr. PARKER, Mr. BARCIA of Michigan, Mr. HOBSON, Mr. ROMERO-BARCELO, Mr. LEWIS of Florida, Mrs. MEYERS of Kansas, Mr. ENGEL, Mr. PORTMAN, and Ms. PRYCE of Ohio.  
 H.R. 3228: Mr. GUTIERREZ and Mr. GENE GREEN of Texas.  
 H.R. 3271: Mr. SHAYS.  
 H.R. 3272: Mr. HUGHES and Mr. CANADY.  
 H.R. 3322: Mr. SCOTT, Mr. ACKERMAN, Mr. DIXON, Mr. PAYNE of New Jersey, Mr. FIELDS of Louisiana, and Mr. OBERSTAR.  
 H.R. 3342: Mr. BARCA of Wisconsin, Mr. CONYERS, Mr. CRAMER, Mr. GLICKMAN, Mr. APPEGATE, Mr. MURTHA, and Mr. TORRES.  
 H.R. 3359: Mr. CRANE.  
 H.R. 3370: Ms. MCKINNEY.  
 H.R. 3389: Mr. ROMERO-BARCELO.  
 H.R. 3397: Mr. TRAFICANT, Mr. SCOTT, Mr. FILNER, Mr. GALLEGLY, Mr. MURTHA, Mr. FROST, and Mr. BAESLER.  
 H.R. 3408: Mr. MCCRERY.  
 H.R. 3520: Mr. BEILENSON.  
 H.J. Res. 90: Mr. LIGHTFOOT, Mrs. BENTLEY, Mr. GUNDERSON, Mrs. JOHNSON of Connecticut, Mr. GILCHREST, Mr. GILMAN, Mr. HUNTER, Mr. BLUTE, Mr. MANN, Mr. SKEEN, Mr. GRAMS, Mr. TAYLOR of North Carolina, Ms. DUNN, Mr. BORSKI, Mr. BREWSTER, Mr. CLEMENT, and Mr. CLINGER.  
 H.J. Res. 131: Mr. SERRANO, Mr. TALENT, Mr. BERMAN, Mr. INHOFE, Ms. MARGOLIES-MEZVINSKY, Mr. WATT, and Mr. CHAPMAN.  
 H.J. Res. 139: Mr. FRANKS of New Jersey, Mr. CAMP, Mr. NADLER, Mr. PETE GEREN of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CHAPMAN, Ms. KAPTUR, Mr. DELLUMS, Mr. HYDE, Mr. STUPAK, Mr. BALLENGER, Mr. BILBRAY, Ms. BYRNE, Mr. MILLER of California, Mr. BARRETT of Nebraska, Mrs. BENTLEY, Mr. WHITTEN, Mr. HOYER, Mr. GEJDENSON, Mr. BERMAN, Mr. RIDGE, Mr. BARLOW, Mr. PASTOR, Mr. REGULA, Ms. ROYBAL-ALLARD, Mr. MORAN, and Mr. DURBIN.

H.J. Res. 159: Mr. STUDDS, Ms. SCHENK, Mr. STUMP, Mr. SLATTERY, Mr. GILLMOR, Mr. BAKER of California, and Mr. JOHNSTON of Florida.  
 H.J. Res. 165: Mr. GOODLING.  
 H.J. Res. 237: Mr. KASICH and Mr. HUNTER.  
 H.J. Res. 246: Mr. BEVILL, Mr. DEUTSCH, Mr. HALL of Ohio, Mr. HOYER, Mr. MINETA, Mr. PARKER, Mr. PETERSON of Florida, Mr. ROYCE, Mr. SWETT, Mr. TUCKER, Mr. WYNN, Mr. BACCHUS of Florida, Mr. CALVERT, Mr. CASTLE, Mr. CLINGER, Mr. CLYBURN, Mr. FORD of Tennessee, Mr. KASICH, Mr. SLATTERY, Mr. WYDEN, and Mr. YATES.  
 H.J. Res. 247: Mr. FARR, Mr. FORD of Michigan, Mr. FIELDS of Texas, Mr. ENGEL, Mr. STEARNS, Mr. VOLKMER, Mr. POMEROY, Mr. DINGELL, Mr. HALL of Texas, Mr. MCHUGH, Mr. EDWARDS of Texas, Mr. KING, and Ms. MOLINARI.  
 H.J. Res. 272: Mr. PORTER, Mr. ORTON, Mr. MANTON, Mr. KILDEE, Mr. LAZIO, Mr. GEPHARDT, Mr. TAYLOR of North Carolina, Mr. HALL of Ohio, Mr. FAWELL, Mr. TANNER, Mr. LAUGHLIN, Mr. ABERCROMBIE, Mr. BACCHUS of Florida, Mr. PACKARD, Mr. LEWIS of Florida, Mr. APPEGATE, Mr. PAYNE of New Jersey, Mr. BILBRAY, Mr. LEWIS of California, Mr. FORD of Tennessee, Mr. CLYBURN, Ms. FURSE, Mr. BISHOP, Mr. ROGERS, Mr. RIDGE, Mr. BORSKI, Mr. QUILLLEN, Mr. COYNE, Mr. BEVILL, Mr. WAXMAN, Mr. WYDEN, Mr. BEILENSON, Mr. SMITH of Iowa, Mr. GLICKMAN, Mr. NADLER, Mr. INSLEE, Mr. DORNAN, Mr. HUNTER, Mr. GONZALEZ, Mr. WISE, Mr. VENTO, Mr. WATT, Mr. COX, Mr. PARKER, Mr. TORRES, Mr. HANSEN, Mr. DOOLITTLE, Mr. RUSH, and Mrs. VUCANOVICH.  
 H. Con. Res. 4: Mr. FRANK of Massachusetts  
 H. Con. Res. 20: Mr. ANDREWS of Maine and Ms. MARGOLIES-MEZVINSKY.  
 H. Con. Res. 84: Mr. FAZIO.  
 H. Con. Res. 107: Mr. FARR.  
 H. Con. Res. 110: Ms. LAMBERT.  
 H. Con. Res. 123: Mr. ENGEL.  
 H. Con. Res. 166: Mr. KNOLLENBERG.  
 H. Con. Res. 171: Mr. MCNULTY, Mr. WAXMAN, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. DELLUMS, and Mr. FISH.  
 H. Con. Res. 175: Mr. SHAYS, Mr. BEILENSON, Mr. FOGLIETTA, Mr. ABERCROMBIE, Mr. FRANK of Massachusetts, Mr. GLICKMAN, Mr. BORSKI, Mr. OLVER, Mrs. MALONEY, Mr. OWENS, Mr. HOCHBRUECKNER, Mr. FILNER, Mr. MCCURDY, Mr. LEACH, Mr. COOPER, Mr. TEJEDA, Mrs. MEEK, Mr. KING, Mr. FROST, Mr. TORRICELLI, Mr. WHEAT, Mr. MCNULTY, Ms. SLAUGHTER, Mr. CARDIN, Mr. PRICE of North Carolina, Mr. GENE GREEN of Texas, Mr. COPPERSMITH, Mr. HORN of California, Ms. SHEPHERD, Mr. FALEOMAVAEGA, Mr. PALLONE, Mr. BARTLETT of Maryland, Mr. HINCHEY, and Mr. KYL.  
 H. Res. 21: Mr. ZELIFF and Mr. KLUG.  
 H. Res. 234: Ms. MARGOLIES-MEZVINSKY and Mrs. FOWLER.  
 H. Res. 247: Ms. LAMBERT.

¶136.34 DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS  
 Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:  
 H.R. 300: Mr. COLLINS of Georgia.

**FRIDAY, NOVEMBER 19, 1993 (137)**

¶137.1 DESIGNATION OF SPEAKER PRO TEMPORE  
 The House was called to order by the SPEAKER pro tempore, Mr. GEPHARDT, who laid before the House the following communication:

WASHINGTON, DC,  
 November 19, 1993.  
 I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on this day.  
 THOMAS S. FOLEY,  
 Speaker of the House of Representatives.

¶137.2 APPROVAL OF THE JOURNAL  
 The SPEAKER pro tempore, Mr. GEPHARDT, announced he had examined and approved the Journal of the proceedings of Thursday, November 18, 1993.

Mr. TRAFICANT, pursuant to clause 1, rule I, objected to the Chair's approval of the Journal.

The question being put, viva voce, Will the House agree to the Chair's approval of said Journal?

The SPEAKER pro tempore, Mr. GEPHARDT, announced that the yeas had it.

Mr. TRAFICANT objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present, The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared ....	Yeaes ..... 238 Nays ..... 150 Answered present 1
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¶137.3 [Roll No. 583] YEAS—238

Abercrombie	Dixon	Kanjorski
Ackerman	Dooley	Kaptur
Andrews (ME)	Durbin	Kennedy
Andrews (TX)	Edwards (CA)	Kennelly
Applegate	Edwards (TX)	Kildee
Archer	English (AZ)	Kleczka
Bacchus (FL)	English (OK)	Klein
Baesler	Eshoo	Klink
Barca	Evans	Kopetski
Barcia	Farr	Kreidler
Barlow	Fazio	LaFalce
Barrett (WI)	Fields (LA)	Lambert
Bateman	Filner	Lancaster
Becerra	Fingerhut	Lantos
Berman	Fish	LaRocco
Bevill	Flake	Laughlin
Bilbray	Foglietta	Lehman
Bishop	Frank (MA)	Levin
Blackwell	Frost	Lewis (CA)
Bonior	Furse	Lewis (GA)
Borski	Gejdenson	Lipinski
Boucher	Gephardt	Livingston
Brewster	Geren	Lloyd
Brooks	Gibbons	Long
Browder	Gillmor	Lowe
Brown (FL)	Gilman	Maloney
Brown (OH)	Glickman	Mann
Bryant	Gonzalez	Markey
Byrne	Gordon	Martinez
Cardin	Green	Mazzoli
Carr	Gunderson	McCurdy
Clayton	Gutierrez	McHale
Clement	Hall (OH)	McInnis
Clyburn	Hall (TX)	McKinney
Coleman	Hamburg	McNulty
Collins (GA)	Hamilton	Meehan
Collins (IL)	Harman	Meek
Collins (MI)	Hastings	Menendez
Combest	Hayes	Miller (CA)
Condit	Hefner	Mineta
Conyers	Hilliard	Minge
Coppersmith	Hinche	Moakley
Costello	Hoagland	Montgomery
Coyne	Hochbrueckner	Moran
Cramer	Holden	Murtha
Danner	Houghton	Myers
Darden	Hughes	Natcher
de la Garza	Hutto	Neal (MA)
Deal	Hyde	Neal (NC)
DeFazio	Inglis	Oberstar
DeLauro	Inslee	Obey
Dellums	Johnson (SD)	Olver
Derrick	Johnson, E. B.	Ortiz
Deutsch	Johnston	Orton