116TH CONGRESS 1ST SESSION

H. R. ______

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.

IN THE HOUSE OF REPRESENTATIVES

Mr. GRIJALVA introduced the following bill; which was referred to the Committee on ________________________

A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Hardrock Leasing and Reclamation Act of 2019”.

(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Definitions and references.
Sec. 3. Application rules.

TITLE I—MINERAL LEASING, EXPLORATION, AND DEVELOPMENT

Sec. 101. Closure to entry and location.
Sec. 102. Limitation on patents.
Sec. 103. Prospecting license and hardrock leases.
Sec. 104. Competitive leasing.
Sec. 105. Small miners leases.
Sec. 106. Lands containing nonhardrock minerals; other uses.
Sec. 107. Royalty.
Sec. 108. Existing production.
Sec. 109. Hardrock mining claim maintenance fee.
Sec. 110. Effect of payments for use and occupancy of claims.
Sec. 111. Protection of special places.
Sec. 112. Suitability determination.

TITLE II—CONSULTATION PROCEDURE

Sec. 201. Requirement for consultation.
Sec. 203. Scoping stage consultation.
Sec. 204. Decision stage procedures.
Sec. 205. Documentation and reporting.
Sec. 206. Implementation.
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TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

Sec. 301. General standard for hardrock mining on Federal land.
Sec. 302. Permits.
Sec. 303. Exploration permit.
Sec. 304. Operations permit.
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Sec. 306. Financial assurance.
Sec. 307. Operation and reclamation.
Sec. 308. State law and regulation.

TITLE IV—ABANDONED HARDROCK MINE RECLAMATION

Sec. 401. Establishment of Fund.
Sec. 402. Contents of Fund.
Sec. 403. Displaced material reclamation fee.
Sec. 404. Use and objectives of the Fund.
Sec. 405. Eligible lands and waters.

TITLE V—ADDITIONAL PROVISIONS

Sec. 501. Policy functions.
Sec. 502. User fees and inflation adjustment.
Sec. 503. Inspection and monitoring.
Sec. 504. Citizens suits.
Sec. 505. Administrative and judicial review.
Sec. 506. Reporting requirements.
Sec. 507. Enforcement.
Sec. 508. Regulations.
Sec. 509. Oil shale claims.
Sec. 510. Savings clause.
Sec. 511. Availability of public records.
Sec. 512. Miscellaneous powers.
Sec. 513. Mineral materials.
Sec. 514. Effective date.

SEC. 2. DEFINITIONS AND REFERENCES.

(a) IN GENERAL.—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 “agency” means any authority of the United States that is an “agency” under section 3502(1) of title 44, United States Code.

(3) The term “applicant” means any person applying for a permit, license, or lease under this Act or a modification to or a renewal of a permit, license, or lease under this Act.

(4) The term “beneficiation” means the crushing and grinding of hardrock mineral ore and such processes as are employed to free the mineral from
other constituents, including physical and chemical separation techniques.

(5) The term “casual use”—

(A) subject to subparagraphs (B) and (C), means mineral activities that do not ordinarily result in any disturbance of public lands and resources;

(B) includes collection of geochemical, rock, soil, or mineral specimens using handtools, hand panning, or nonmotorized sluicing; and

(C) does not include—

(i) the use of mechanized earth-moving equipment, suction dredging, or explosives;

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

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

(iv) the use of toxic or hazardous materials.

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

(7) 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 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.

(8) The term “crude ore” means ore in its unprocessed form, containing profitable amounts of the target mineral.

(9) The term “displaced material” means any crude ore and waste dislodged from its location at the time hardrock mineral activities begin at a surface, underground, or in-situ mine.

(10) The term “exploration”—

(A) subject to subparagraphs (B) and (C), means creating surface disturbance other than casual use, to evaluate the type, extent, quantity, or quality of minerals present;
(B) includes mineral activities associated with sampling, drilling, and analyzing hardrock mineral values; and

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

(11) The term “Federal land” means any land, and any interest in land, that is owned by the United States, except lands in the National Park System, lands held in trust for an Indian or Indian Tribe, and lands on the Outer Continental Shelf.

(12) The term “Fund” means the Hardrock Minerals Reclamation Fund established by this Act.

(13) 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.

(14) 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.), that is recognized as eligible for the special programs and serv-
ices provided by the United States to Indians because of their status as Indians.

(15) The term “hardrock mineral”—

(A) subject to subparagraph (B), means any mineral that was subject to location under the general mining laws as of the date of enactment of this Act, and that is not subject to disposition under—

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

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

(iii) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

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

(B) does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

(i) 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
(ii) owned by any Indian or Indian Tribe, as defined in that section.

(16) The term “mineral activities” means any activity on a mining claim, millsite claim, or tunnel site claim, or a lease, license, or permit issued under this Act, for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any hardrock mineral.

(17) The term “memorandum of agreement” means a document that records the terms and conditions agreed upon by an agency and an Indian Tribe through the consultation process regarding an activity, including any measures to be taken to resolve or mitigate adverse impacts on the Indian Tribe.

(18) 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 Wilderness Preservation System, National Landscape Conservation System, or National Trails System, or a National Conservation Area, a National Recreation Area, a National Monument, or any unit of the National Wilderness Preservation System or lands within the National Forest System, including any of the following:

(A) National Scenic Research Area.
(B) National Scenic Area.

(C) National Game Refuge and Wildlife Preserve.

(D) National Volcanic Monument.

(E) National Historic Area.

(F) National Protection Area.

(G) Special Management Area.

(H) National Botanical Area.

(I) Recreation Management Area.

(J) Scenic Recreation Area.

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

(20) 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.

(21) The term “processing” means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including smelting and electrolytic refining.
The term “sacred site” means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian Tribe—

(A) as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; or

(B) to be of established cultural significance.

The term “Secretary” means the Secretary of the Interior, unless otherwise specified.

The term “Secretary concerned” means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service) with respect to National Forest System land; and

(B) the Secretary of the Interior (acting through the Director of the Bureau of Land Management) with respect to other Federal land.

(A) The term “small miner” means a person (including all related parties thereto) that—

(i) holds not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands;
(ii) holds leases and permits under this Act with respect to not more than 200 acres of Federal land;  

(iii) certifies to the Secretary in writing that the person had annual gross income in the preceding calendar year from mineral production in an amount less than $50,000 (indexed for inflation); and  

(iv) has performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28 et seq.) to maintain any mining claims held by the person (including such related parties) for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.  

(B) For purposes of subparagraph (A), with respect to any person, the term “all related parties” means—  

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the person concerned; or  

(ii) a person affiliated with the person concerned, including—
(I) another person controlled by, controlling, or under common control with the person concerned; or

(II) a subsidiary or parent company or corporation of the person concerned.

(C) For purposes of subparagraph (A)(iii), the dollar amount shall be applied, for a person, to the aggregate of all annual gross income from mineral production under all mining claims held by or assigned to such person or all related parties with respect to such person, including mining claims located or for which a patent was issued before the date of the enactment of this Act.

(26) The term “temporary cessation” means a halt in mine-related production activities for a continuous period of no longer than 5 years.

(27) The term “ton” means 2,000 pounds avoirdupois (.90718 metric ton).

(28) The term “undue degradation” means irreparable harm to significant scientific, cultural, or environmental resources on public lands.

(29) The term “valuable mineral deposit” means a deposit of hardrock minerals that is of sufficient value for a reasonable miner to economically mine.
(30) The term “waste” means rock that must be fractured and removed in order to gain access to crude ore.

(b) REFERENCES TO OTHER LAWS.—

(1) GENERAL MINING LAWS.—Any reference in this Act to the term “general mining laws” is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

(2) ACT OF JULY 23, 1955.—Any reference in this Act to the Act of July 23, 1955, is a reference to the Act 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 et seq.).

SEC. 3. APPLICATION RULES.

(a) IN GENERAL.—This Act applies to any mining claim, millsite claim, or tunnel site claim located under the general mining laws, before or on the date of enactment of this Act.

(b) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LANDS.—The provisions of this Act shall apply in the same manner and to the same extent to mining claims,
millsite claims, tunnel site claims, and any land included
in a lease or license issued under this Act, used for
beneficiation or processing activities for any hardrock min-
eral.

TITLE I—MINERAL LEASING, EX-
PLORATION, AND DEVELOP-
MENT

SEC. 101. CLOSURE TO ENTRY AND LOCATION.

(a) CLOSURE.—Except as otherwise provided in this
section, as of the effective date of this Act all Federal
lands are closed to entry and location under the general
mining laws, and no new rights under the general mining
laws may be acquired.

(b) EXISTING NONPRODUCING CLAIMS.—

(1) CLAIMS WITHOUT PLAN OF OPERATIONS.—
Any claim under the general mining laws existing on
the effective date of this Act for which a plan of op-
erations is not approved, or a notice of operations is
not filed, before such date shall be subject to the re-
quirements of this Act, and may remain in effect
until not later than the end of the 10-year period be-
inning on the date of enactment of this Act if the
claimholder remains in compliance with section 109,
unless the claim holder—

(A) relinquishes the claim; or
(B) demonstrates eligibility for a lease and requests conversion under the regulations issued under subsection (d).

(2) Shortening of period.—The 10-year period referred to in paragraph (1) shall be shortened to 3 years if—

(A) the claim is for an area that is located in an area withdrawn or temporarily segregated from location under the general mining laws as of the effective date of this Act; or

(B) the claim belongs to a small miner.

(3) Conversion.—Upon showing to the satisfaction of the Secretary of a valuable mineral deposit on lands subject to such a claim, the Secretary may convert the claim to a noncompetitive lease under the regulations issued under subsection (d).

(4) Claims not converted.—Any such claims not converted to leases at the end of the applicable period under paragraph (1) or (2) shall be considered invalid and void.

(c) Existing claims with plan of operation.—

(1) In general.—In the case of any claim under the general mining laws for which a plan of operations has been approved but for which oper-
ations have not commenced before the date of enactment of this Act—

(A) during the 10-year period beginning on the date of enactment of this Act—

(i) mineral activities on lands subject to such claim shall be subject to such plan of operations; and

(ii) modification of such plan may be made in accordance with the provisions of law applicable before the date of the enactment of this Act if such modifications are considered minor by the Secretary concerned; and

(B) the operator shall bring such mineral activities into compliance with this Act by the end of such 10-year period.

(2) ACTIVITIES PENDING DECISION ON MODIFICATION TO PLAN OF OPERATIONS.—If an application for modification of a plan of operations referred to in paragraph (1)(A)(ii) has been timely submitted and an approved plan expires before the Secretary concerned takes action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until such
Secretary makes an administrative decision on the application.

(3) CONVERSION REQUIREMENT.—Any claims referred to in paragraph (1) may remain in effect for a period of up to 10 years. Any claim not converted to a lease under subsection (d) before the end of that period shall be subject to a fee of $100 per acre per day until the claim is converted to a lease.

(d) CONVERSION REGULATIONS.—

(1) IN GENERAL.—The Secretary shall issue regulations not later than one year after the date of the enactment of this Act to provide for the conversion of mining claims to noncompetitive mining leases.

(2) CONTENT.—The regulations issued under paragraph (1) shall—

(A) prohibit the conversion of a mining claim to a mining lease by a claimholder who is in violation of this Act or other State or Federal environmental, health, or worker safety law;

(B) allow the Secretary to exercise discretion to include nonmineral lands within the boundaries of any mill site associated with the
mining claim to be converted to a noncompetitive lease;

(C) prohibit the area in any noncompetitive mining lease issued under this subsection to exceed the maximum area authorized by this Act to be leased to any person;

(D) require the consent of the surface managing agency for conversion of a mining claim to a noncompetitive mining lease;

(E) require the fiscal terms of the converted noncompetitive mining lease to be the same as provided in this Act for other hardrock mining leases;

(F) require compliance with all provisions of this Act; and

(G) include any other terms the Secretary considers appropriate.

(e) NEPA.—The Secretary is not required to conduct an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the issuance of a noncompetitive lease under this section, unless the noncompetitive lease modifies or extends the surface disturbance already authorized under a mine plan of operations covering the mining claim that is converted.
SEC. 102. LIMITATION ON PATENTS.

(a) MINING CLAIMS.—

(1) DETERMINATIONS REQUIRED.—After the date of enactment of this Act, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary determines that, for the claim concerned—

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

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

(2) RIGHT TO PATENT.—If the Secretary makes the determinations referred to in subparagraphs (A) and (B) of paragraph (1) 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 such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.
(b) Millsite Claims.—

(1) Determinations Required.—After the date of enactment of this Act, no patent shall be issued by the United States for any millsite claim located under the general mining laws unless the Secretary determines that for such millsite—

(A) a patent application for the land subject to such claim was filed with the Secretary on or before September 30, 1994; and

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

(2) Right to Patent.—If the Secretary makes the determinations described in subparagraphs (A) and (B) of paragraph (1) for any millsite 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 such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 103. PROSPECTING LICENSE AND HARDROCK LEASES.

(a) In General.—No person may conduct mineral prospecting for commercial purposes for any hardrock
mineral on Federal lands without a prospecting license or a small miners lease.

(b) PROSPECTING LICENSES.—

(1) IN GENERAL.—The Secretary may, under such rules and regulations as the Secretary may prescribe and with the concurrence of the relevant surface management agency, grant an applicant a prospecting license that shall give the exclusive right to prospect for specified hardrock minerals on Federal lands for a period of not exceeding two years.

(2) MAXIMUM AREA.—The area subject to such a license shall not exceed 2,560 acres of land, in reasonably compact form.

(3) LICENSE APPLICATION FEE.—The Secretary shall charge a fee for each license application to cover the costs of processing the license, and the license shall be subject to annual rentals equal to $10 per acre per year.

(4) TERMS AND CONDITIONS.—A prospecting license must conform with the terms and conditions of a comprehensive land use plan approved under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.). For areas where a
comprehensive land use plan treating hardrock mining as a multiple-use activity has not been completed, the Secretary concerned shall ensure that the land to be covered by the license is suitable for mineral activities.

(5) EXTENSION.—A prospecting license may be extended for up to an additional four years upon a showing by the licensee that the licensee explored with reasonable diligence and was unable to determine the existence and workability of a valuable deposit covered by the license, or that the failure to perform diligent prospecting activities was due to conditions beyond the licensee’s control.

(c) NONCOMPETITIVE LEASES.—

(1) IN GENERAL.—Upon a showing to the satisfaction of the Secretary by a prospecting licensee under subsection (a) that a valuable deposit of a hardrock mineral has been discovered by the licensee within an area covered by the prospecting license and with the consent of the surface agency, the licensee shall be entitled to a lease for any or all of the land included in the prospecting license, as well as any nonmineral lands necessary for processing or milling operations, at a royalty of no less than 12.5 percent of the gross value of production of hardrock
minerals or mineral concentrates or products derived from hardrock minerals under the lease. Rentals for such lease shall be set by the Secretary at no less than $10 per acre per year, with rentals paid in any one year credited against royalties accruing for that year. The recipient of such lease is not entitled to an operations permit.

(2) LEASE PERIOD.—

(A) IN GENERAL.—A lease under this section shall be for a period of 20 years, with the right to renew for successive periods of 10 years if hardrock minerals are being produced in commercial quantities under the lease.

(B) EXTENSION DURING NONPRODUCTION.—If hardrock minerals are not being produced in commercial quantities at the end of the primary term or any subsequent term of such a lease, the Secretary may issue a 10-year extension of the lease in the interest of conservation or upon a successful showing by the lessee that the lease cannot be successfully operated at a profit or for other reasons. No more than one extension under this subparagraph may be issued.
(d) **Cumulative Acreage Limitation.**—No person may take, hold, own, or control at one time, whether acquired directly from the Secretary under this Act or otherwise, hardrock mining leases or licenses for an aggregate of more than 20,480 acres in any one State.

(e) **Reduction of Royalty Rate.**—The Secretary—

1. may reduce the royalty rate for a lease upon a showing by clear and convincing evidence by the person conducting mineral activities under the lease that production would not occur without the reduction in royalty; and

2. may reduce royalty and rental rates for a lease to encourage exploration for and development of hardrock minerals classified as strategic and critical by the Department of Energy.

(f) **Protection of Land and Other Resources.**—The Secretary may include in any lease or license issued under this Act such provisions as are necessary to adequately protect the lands and other resources in the vicinity of the area subject to the lease or license. For land not managed by the Department of the Interior, the Secretary shall consult with the appropriate surface management agency in formulating such provisions.
SEC. 104. COMPETITIVE LEASING.

(a) IN GENERAL.—Subject to sections 111 and 112, Federal lands known to contain valuable deposits of hardrock minerals that are not covered by claims, licenses, or leases may only be open to hardrock mineral exploration or development through competitive leasing by the Secretary by such methods the Secretary may adopt by regulation and in such areas as the Secretary may determine, including nonmineral lands the Secretary considers necessary for processing or milling operations. The total area of land subject to any such lease shall not exceed 2,560 acres.

(b) TERMS AND REQUIREMENTS.—All terms and requirements for competitive leases under this section shall be the same as if the leases were issued noncompetitively under section 103(c).

SEC. 105. SMALL MINERS LEASES.

(a) IN GENERAL.—The Secretary may issue small miners leases to qualified small miners that apply, under such rules and regulations as the Secretary may prescribe, including conditions to require diligent development of the lease and to ensure protection of surface resources and groundwater.

(b) EXCLUSIVE RIGHT.—A small miners lease shall give the leaseholder the exclusive right to prospect for
hardrock minerals for 3 years on up to 200 acres of contiguous or non-contiguous Federal land.

(c) APPLICATION FEE.—The Secretary shall charge a reasonable application fee for such a lease.

(d) RENTALS.—Rentals for such a lease shall be $5 per acre per year for the first 3 years.

(e) RENEWAL.—Such leases may be renewed for additional 3-year periods, with no limit, with a $10 per acre per year rental charged for renewed leases.

(f) CHALLENGE.—Any individual may file a challenge with the Secretary that a leaseholder is in violation of the diligence terms of a small miners lease or does not qualify as a small miner. A small miners lease that is under such a challenge may not be renewed unless the Secretary has determined that the leaseholder is a small miner and is in compliance with all the terms of the lease.

(g) NO ROYALTIES.—No royalties shall be charged for commercial production under a small miners lease.

(h) CONVERSION OF EXISTING CLAIMS.—An existing claim, as of January 1, 2017, that belongs to an individual that qualifies as a small miner may be converted to a small miners lease under the same terms and conditions that apply to other small miners leases, except that such lease—
(1) shall not be subject to rental during the primary term of the lease;

(2) shall be subject to a rental of $5 per acre per year for the first 3-year renewal of the lease; and

(3) shall be subject to a rental of $10 per acre per year for any subsequent 3-year renewal of the lease.

(i) LIMITATIONS.—A small miners lease—

(1) may only be held by the primary leaseholder, a spouse thereof, or a direct descendent thereof;

(2) may not be sold or transferred, other than to a spouse or direct descendent of the primary leaseholder; and

(3) is subject to all permitting requirements under this Act.

(j) CONVERSION TO HARDROCK MINERAL LEASE.—

If, with regards to a lease, the leaseholder no longer qualifies as a small miner at the time such leaseholder applies for a renewal of such lease, such leaseholder shall not be eligible to renew the small miners lease, but shall be eligible for a noncompetitive hardrock mineral lease issued under section 103(c). Notwithstanding section 103(c)(1), royalties under such a lease shall only be due on the gross
income that exceeds the amount of gross income specified
in such definition as of the time the hardrock mineral
lease is issued.

SEC. 106. LANDS CONTAINING NONHARDROCK MINERALS;
OTHER USES.

(a) IN GENERAL.—In issuing licenses and leases
under this Act for lands that contain deposits of coal or
other nonhardrock minerals, the Secretary shall reserve to
the United States such nonhardrock minerals for disposal
under applicable laws.

(b) OTHER USES OF LICENSED AND LEASED
LANDS.—

(1) IN GENERAL.—The Secretary shall promul-
gate regulations to allow for other uses of the lands
covered by a prospecting license under this Act, in-
cluding leases for other minerals, if such other uses
would not unreasonably interfere with operations
under the prospecting license.

(2) PROSPECTING LICENSES.—The Secretary
shall include in such prospecting licenses such terms
and conditions as the Secretary finds necessary to
avoid unreasonable interference with other uses oc-
curring on, or other leases of, the licensed lands.

(3) LEASES.—The Secretary shall include in
leases under this Act stipulations to allow for simul-
taneous operations under other leases for the same
lands.

SEC. 107. ROYALTY.

(a) EXISTING PRODUCTION.—Production of hardrock
minerals on Federal land under an operations permit from
which valuable hardrock minerals were produced in com-
mercial quantities before the date of the enactment of this
Act, other than production under a small miners lease,
shall be subject to a royalty established by the Secretary
at no less than 8 percent of the gross value of such produc-
tion, or of mineral concentrates or products derived from
hardrock minerals. Any Federal land added through a
plan modification to an operations permit on Federal land
that is submitted after the date of enactment of this Act
shall be subject to a royalty established by the Secretary
for such lease of no less than 12.5 percent of the gross
value of production of hardrock minerals, or mineral con-
centrates or products derived from hardrock minerals.

(b) LIABILITY.—The claim or leaseholder, or any op-
erator to whom the claim or lease holder has assigned the
obligation to make royalty payments under the claim or
lease and any person who controls such claim or lease
holder or operator, shall be liable for payment of such roy-
alties.
(c) Disposition.—Of the revenues collected under this title, including rents, royalties, claim maintenance fees, interest charges, fines, and penalties—

(1) 25 percent shall be paid to the State within the boundaries of which the leased, licensed, or claimed lands, or operations subject to such interest charges, fines, or penalties are or were located; and

(2) the remainder shall be deposited in the account established under section 501.

(d) Duties of Claim or Lease Holders, Operators, and Transporters.—

(1) Regulation.—The Secretary shall prescribe by rule the time and manner in which—

(A) a person who is required to make a royalty payment under this section shall make such payment; and

(B) shall notify 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 or lease under this title.

(2) Written Instrument.—Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for making
proper payments for all amounts due for all time periods for which such person has a payment responsibility.

(3) ADDITIONAL AMOUNTS.—Such responsibility for the periods referred to in paragraph (2) shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action.

(4) JOINT AND SEVERAL LIABILITY.—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 period.

(5) OBLIGATIONS.—A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in the operations permit designed to protect from theft the hardrock minerals, concentrates, or products derived therefrom that are produced or stored on the area subject to a mining claim or lease, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of cir-
cumstances on areas subject to mining claims
and leases; and

(B) not later than the 5th business day
after production begins anywhere on an area
subject to a mining claim or lease, or produc-
tion resumes after more than 90 days after pro-
duction was suspended, notify the Secretary, in
the manner prescribed by the Secretary, of the
date on which such production has begun or re-
sumed.

(6) **REQUIRED DOCUMENTATION.**—The Sec-
retary may by rule require any person engaged in
transporting a hardrock mineral, concentrate, or
product derived therefrom to carry on his or her per-
son, 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
hardrock mineral, concentrate, or product derived
therefrom in such circumstances as the Secretary
determines is appropriate.

(e) **RECORDKEEPING AND REPORTING REQUIRE-
MENTS.**—

(1) **IN GENERAL.**—A claim or lease holder, op-
erator, or other person directly involved in devel-
oping, producing, processing, transporting, pur-
chasing, or selling hardrock 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 periodic reports, records, documents, and other data. Such reports may also include pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim or lease.

(2) Availability for inspection.—Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee.

(3) Forfeiture.—Failure by a claim or lease holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Sec-
(4) **MAINTENANCE OF RECORDS.**—Records required by the Secretary under this section shall be maintained for 7 years after release of financial assurance under section 306 unless the Secretary notifies the operator that the Secretary 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.

(f) **AUDITS.**—The Secretary is authorized to conduct such audits of all claim or lease holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sale 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.

(g) **COOPERATIVE AGREEMENTS.**—
(1) In general.—The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of hardrock 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) Secretary of Agriculture.—Except as provided in paragraph (3), 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 hardrock minerals, concentrates, or products derived therefrom from claims or leases on lands open to location under this Act.

(3) Trade secrets.—Trade secrets, proprietary, and other confidential information protected from disclosure under section 552 of title 5, United States Code, shall be made available by the Secretary to other Federal agencies as necessary to as-
sure compliance with this Act and other Federal laws. The Secretary, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and other Federal officials shall ensure that such information is provided protection in accordance with the requirements of that section.

(h) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—

(1) PAYMENTS NOT RECEIVED.—In the case of mining claims or leases 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 the rate 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) UNDERREPORTING.—If there is any underreporting of royalty owed on production from a claim or lease for any production month by any person liable for royalty payments under this section, the Secretary shall assess a penalty of not greater than 25 percent of the amount of that underreporting.
(3) **Self-reporting.**—The Secretary may waive or reduce the assessment provided in paragraph (2) 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.

(4) **Waiver.**—The Secretary shall waive any portion of an assessment under paragraph (2) 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;

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

(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.

(5) DEFINITION.—For the purposes of this subsection, the term “underreporting” means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(6) HARDROCK MINERALS RECLAMATION FUND.—All penalties collected under this subsection shall be deposited in the Hardrock Minerals Reclamation Fund established by this Act.

(i) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all hardrock minerals, concentrates, or products derived therefrom lost or wasted from a mining claim or lease 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.

(j) GROSS INCOME FROM MINING DEFINED.—For the purposes of this section, for any hardrock mineral, the term “gross income from mining” has the same meaning
as the term “gross income” in section 613(c) of the Internal Revenue Code of 1986.

(k) Effective Date.—Royalties under this Act shall take effect with respect to the production of hardrock 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.

(l) Failure To Comply With Royalty Requirements.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section 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 or lease maintained in compliance with this Act were a lease under such Act.

SEC. 108. EXISTING PRODUCTION.

The holder of a mining claim located or converted under this Act for which mineral activities have already commenced under an approved plan of operations as of the date of enactment of 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 on such lands to the satisfaction of the Secretary.

SEC. 109. HARDROCK MINING CLAIM MAINTENANCE FEE.

(a) Fee.—

(1) In general.—

(A) Required fees.—Except as provided in section 2511(c)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242), or as otherwise provided in this Act, for each unpatented mining claim, mill, or tunnel site on federally owned lands, whether located before or on the date of enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of $200 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) and the related filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a) and (c)).
(B) EXCEPTION FOR SMALL MINERS.—

Subparagraph (A) and the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall not apply with respect to any claim held by a small miner.

(2) FEE ADJUSTMENTS.—

(A) INFLATION.—The Secretary shall adjust the fees required by this subsection to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 3 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

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

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

(3) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior

shall be deposited in the Hardrock Minerals Reclamation Fund established by section 501.

(b) Co-Ownership.—The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28 et seq.) shall remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

(c) Failure to Pay.—Failure to pay the claim maintenance fee as required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(d) Other Requirements.—

(1) Required Filings.—Nothing in this section shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), which remain in effect.

(2) Mining Law of 1872.—Section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) is amended by inserting “or section 103(a) of
the Hardrock Leasing and Reclamation Act of 2019” after “Act of 1993”.

SEC. 110. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.

Except as otherwise provided in section 101, timely payment of the claim maintenance fee required by section 109 or any related law relating to the use of Federal land, asserts the claimant’s authority to use and occupy the Federal land concerned for prospecting and exploration, consistent with the requirements of this Act and other applicable law.

SEC. 111. PROTECTION OF SPECIAL PLACES.

(a) Protection of National Park System Units and National Monuments.—No permit shall be issued under this Act that authorizes mineral activities that would impair the land or resources of a unit of the National Park System or a national monument. For purposes of this subsection, the term “impair” includes any diminution of the affected land including wildlife, scenic assets, water resources, air quality, and acoustic qualities, or other changes that would impair a citizen’s experience at the National Park System unit or a national monument.

(b) 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 that could have an adverse impact on the resources or values for which such units were established.

(c) LANDS NOT OPEN TO MINING.—Notwithstanding any other provision of law and subject to valid existing rights, no hardrock mining activity shall be allowed in any of the following:

(1) Sacred sites.

(2) Wilderness study areas.

(3) Areas of critical environmental concern.

(4) Units of the National Conservation System.

(5) Areas designated for inclusion in the National Wild and Scenic Rivers System pursuant to the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), areas designated for potential addition to such system pursuant to section 5(a) of that Act (16 U.S.C. 1276(a)), and areas determined to be eligible for inclusion in such system pursuant to section 5(d) of such Act (16 U.S.C. 1276(d)).

SEC. 112. SUITABILITY DETERMINATION.

(a) In general.—The Secretary concerned shall make each determination of whether lands are suitable for mineral activities that is otherwise required by this Act, in accordance with subsection (b).

(b) Suitability.—

(1) In general.—The Secretary concerned shall consider lands suitable for mineral activities if the Secretary concerned finds that such activities would not result in undue degradation to a special characteristic described in paragraph (2) that cannot be prevented by the imposition of conditions in the permit required for such activities under title III.

(2) Special characteristics.—For purposes of paragraph (1) the Secretary concerned shall consider each of the following to be a special characteristic:

(A) The existence of a significant water resource or supply in or associated with such lands, including any aquifer or aquifer recharge area.

(B) The presence on such lands, or any adjacent lands, of a publicly owned place that is listed on, or determined by the Secretary of the Interior to be eligible for listing on, the National Register of Historic Places.
(C) The designation of all or any portion of such lands, or any adjacent lands, as a National Conservation System unit.

(D) The designation of all or any portion of such lands, or any adjacent lands, as critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(E) The designation of all or any portion of such lands, or any adjacent lands, as a class I area under section 162 of the Clean Air Act (42 U.S.C. 7472).

(F) The presence of such other resource values as the Secretary concerned may by rule specify, determined based upon field testing, evaluation, or credible information that verifies such values.

(G) The designation of such lands, or adjacent lands, as a Research Natural Area.

(H) The presence on such lands, or any adjacent lands, of a sacred site.

(I) The presence or designation of such lands adjacent to lands not open to mining pursuant to section 111.

(3) A determination under this subsection of suitability for mineral activities shall be made after
publication of notice and an opportunity for submission of public comment for a period of not less than 60 days.

(4) Any determination made in accordance with this subsection with respect to lands shall be incorporated into each Federal land use plan applicable to such lands, at the time such plan is adopted, revised, or significantly amended pursuant to any Federal law other than this Act.

(c) Change Request.—The Secretary concerned shall, by rule, provide for an opportunity for any person to request a change in determination for any Federal land found suitable under subsection (a).

(d) Existing Operations.—Nothing in this section shall be construed as affecting lands on which mineral activities were being conducted on the date of enactment of this Act under an approved plan of operations or under notice.

TITLE II—CONSULTATION PROCEDURE

SEC. 201. REQUIREMENT FOR CONSULTATION.

(a) Scope.—Agencies shall have an accountable process to ensure meaningful and timely input by Indian Tribes and Tribal officials prior to undertaking any mineral activities that may have substantial direct impacts on
the lands or interests of one or more Indian Tribes, on
the relationship between the Federal Government and In-
dian Tribes, or on the distribution of power and respon-
sibilities between the Federal Government and Indian
Tribes. Consultation with Indian Tribes shall occur for all
mineral activities that would affect any part of any Fed-
eral land that shares a border with Indian country as de-
defined in section 1151 of title 18, United States Code, but
is not limited to mineral activities on such lands.

(b) Multiagency Mineral Activities.—In the
case of agency-drafted proposed legislation, the drafting
agency, and any other agency that will be implementing
the legislation, shall each be considered involved in the
mineral activity. If more than one agency is involved in
a mineral activity, some or all of the agencies may des-
ignate a lead agency, which shall fulfill their collective con-
sultation responsibilities. Those agencies that do not des-
ignate a lead agency shall remain individually responsible
for their consultation responsibilities under this Act.

(e) Limitation.—Nothing in this Act shall exempt
an agency from additional consultation required under any
other law or from taking any other consultative actions
as required by any other law or agency prerogative in addi-
tion to those required by this Act. Nor does it preclude
an agency from additional consultation that complies with
agency regulations for consultation, advances agency consultation practices, or supports agency efforts to build or strengthen government-to-government relationships with Indian Tribes.

(d) Temporary Waiver.—

(1) In General.—The agency may temporarily waive the requirements of this title in all or any portion of any emergency area during all or any portion of an emergency period.

(2) Duration of Waiver.—A temporary waiver under this subsection shall end upon the termination of the applicable emergency period.

(3) Definitions.—For the purposes of this subsection—

(A) the term “emergency area” means a geographical area in which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.) or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) the term “emergency period” means the period during which there exists an emergency or disaster declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.).
SEC. 202. TIMING.

Consultation under sections 203 and 204 shall be completed before any Federal funds are expended for the mineral activity and before the issuance of any license other than for funding nondestructive project planning mineral activities.

SEC. 203. SCOPING STAGE CONSULTATION.

(a) Planning Document.—As early as possible in the planning stage of a mineral activity, the agency shall compile a draft of the scope of the project, including any geographic areas important to Indian Tribes that might be affected and any other anticipated Tribal impacts. The agency shall make a good faith effort to include areas that contain sites important to Indian Tribes whether or not such sites are explicitly known to the agency.

(b) Initial Consultation Contact.—The agency—

(1) shall send, via United States mail and, if possible, email, a copy of the planning document and a letter requesting consultation meetings to the relevant Tribal Government officials, including the Tribal leader and all members of any elected Tribal
governing body, relevant Tribal governmental agencies (including the Tribal Historic Preservation Officer or cultural resource manager), and relevant non-Tribal stakeholders (including the State Historic Preservation Officer and local governments that have jurisdiction on any affected land via agreement with the agency);

(2) at the request of an affected Indian Tribe, shall send, via United States mail and, if possible, email, a copy of the planning document and a letter requesting consultation meetings to nongovernmental Tribal stakeholders, such as elders councils and religious leaders;

(3) shall not request consultation with non-governmental Tribal stakeholders without the written consent of the affected Indian Tribe; and

(4) shall follow up with phone calls to confirm receipt of the documents by all intended recipients.

(c) CONSULTATION MEETING ARRANGEMENTS.—The agency shall negotiate with the affected Indian Tribes to determine the time, place, agenda, travel funds, facilitator, format, and goals of a consultation meeting. The agency shall keep thorough documentation of all steps taken to contact and engage the affected Indian Tribes in consultation. If, after a good faith effort, the agency fails to en-
gage the affected Indian Tribes, it may terminate its scoping stage consultation efforts by providing all consultation partners with a written notification and explanation for its decision, signed by the head of the agency, and proceed to the decision stage procedures described in section 204.

(d) Scoping Stage Consultation Meeting.—A scoping stage consultation meeting shall begin with confirmation of the format, facilitator, and agenda, with adequate time scheduled for introductions and for interaction throughout the meeting among participants. Whenever possible, Tribal stakeholders shall be brought into the ongoing planning process directly by forming ad hoc workgroups (including Tribal leaders or their designees) and, if appropriate, initiating a process for consensual development of regulations, such as negotiated rulemaking. A scoping stage consultation meeting shall conclude with planning for the next meeting, if necessary.

(e) Termination of Scoping Stage Consultation With a Memorandum of Agreement.—

(1) Termination.—Except as provided by subsection (c), scoping stage consultation shall terminate upon the execution of a memorandum of agreement signed by the head of the agency and the affected Indian Tribal Governments.
(2) SIGNATORIES.—The affected Indian Tribal Governments and the agency may jointly invite additional parties to be signatories of the memorandum of agreement. The signatories have sole authority to execute, amend, or terminate the memorandum of agreement. If any signatory determines that the terms of the memorandum of agreement cannot be or are not being carried out, the signatories shall consult to seek amendment of the memorandum of agreement. If the memorandum of agreement is not amended, any signatory may terminate the agreement, with the option to return to scoping stage consultation. The agency shall provide all nonsignatory consulting partners with the opportunity to submit a written statement, explanation, or comment on the consultation proceedings that shall become part of the agency’s official consultation record.

(3) MEMORANDUM OF AGREEMENT.—The memorandum of agreement—

(A) may address multiple activities if the activities are similar and repetitive or are multistate or regional in scope, or where routine management activities are undertaken at Federal installations, facilities, or other land management units;
(B) may establish standard processes for certain categories of activities determined through consultation and defined in the memorandum of agreement;

(C) shall include a provision for monitoring and reporting on its implementation;

(D) shall include provisions for termination or reconsideration if the activity has not been completed within a specified time; and

(E) shall include provisions to address new discoveries, which may include halting the activity and returning to scoping stage consultation.

(f) TERMINATION OF SCOPING STAGE CONSULTATION WITHOUT A MEMORANDUM OF AGREEMENT.—The agency shall make a good faith effort through sustained interaction and collaboration to reach a consensus resulting in a memorandum of agreement. If, after a good faith effort, the agency determines that further consultation will not be productive, it may terminate consultation by providing all consultation partners with a written notification and explanation for its decision, signed by the head of the agency, and proceed to the decision stage procedures described in section 204. The affected Indian Tribal Governments may at any point decide to terminate consultation. In such case, the agency shall provide the affected Indian
Tribal Governments with the opportunity to submit a written statement, explanation, or comment on the consultation proceedings that will become part of the agency’s official consultation record.

SEC. 204. DECISION STAGE PROCEDURES.

(a) PROPOSAL DOCUMENT.—The agency shall compile a document consisting of the plan for the activity, its anticipated Tribal impacts, any memorandum of agreement, and any written statements made by consulting partners during the scoping stage as described in section 203. The agency shall include sufficient supporting documentation to the extent permitted by law and within available funds to enable any reviewing parties to understand its basis. The agency may use documentation prepared to comply with other laws to fulfill the requirements of this provision to the extent that such documentation is sufficiently pertinent to and focused on the relevant issues as to allow reasonable ease of review. The agency shall mail and, if possible, email a copy of the Proposal Document to all affected Indian Tribal Governments, including those that withdrew from the process. At a minimum, the document shall go to the Tribal leader and all members of any elected Tribal governing body. The agency shall follow up to confirm receipt of the document. After these steps have been completed, the Proposal Document shall be published.
in the Federal Register, subject to the provisions of section 207.

(b) **Public Comment Period.**—The agency shall provide a period of not less than 90 days after publication in the Federal Register for comments on the Proposal Document. A 30-day extension shall be granted upon request by any member of any of the affected Indian Tribal governing bodies.

c) **Preliminary Decision.**—After expiration of the comment period, the agency shall prepare a preliminary decision letter, signed by the head of the agency. The letter shall state the decision to proceed or not proceed with the mineral activity, the decision’s rationale, any changes in the proposal made in response to comments, and any points where the decision conflicts with the expressed requests of any of the affected Indian Tribes. It shall particularly address why the decision was made to disregard any such requests. The agency shall mail and, if possible, email a copy of the letter to all affected Indian Tribal Governments, including those that withdrew from the process. At a minimum, the letter shall go to the Tribal leader and all members of the Tribal governing body. The agency shall follow up to confirm receipt of the letter.

d) **Final Decision.**—The agency shall provide a 60-day period following the issuance of the preliminary de-
cision letter for response by the affected Indian Tribes. Thereafter, the agency shall notify in writing, signed by the head of the agency, the affected Indian Tribal Governments, including those that withdrew from the process, of the agency’s final decision.

SEC. 205. DOCUMENTATION AND REPORTING.

(a) Official Consultation Record.—The agency shall keep an official consultation record that allows accurate tracking of the process so that agencies and consulting parties can correct any errors or omissions, and provides an official record of the process that can be referred to in any litigation that may arise. The agency shall document all efforts to initiate consultation as well as documenting the process once it has begun. Such documentation, including correspondence, telephone logs, and emails, shall be included in the agency’s official consultation record. The agency shall also keep notes so that the consultation record documents the content of consultation meetings, site visits, and phone calls in addition to information about dates and who participated.

(b) Payment for Tribal Documentation Work.—If the agency asks an Indian Tribe for specific information or documentation regarding the location, nature, and condition of individual sites, to conduct a survey, or in any way fulfill the duties of the agency in a role
similar to that of a consultant or contractor, then the
agency must pay for such services, if so requested by the
Indian Tribe, as it would for any private consultant or
contractor.

(c) REPORT TO CONGRESS.—Each agency shall on a
biennial basis submit to Congress a report on its consulta-
tion activities.

SEC. 206. IMPLEMENTATION.

Not later than 30 days after the date of the enact-
ment of this Act, the head of each agency shall designate
an official with principal responsibility for the agency’s re-
view of existing consultation and coordination policies and
procedures, and implementation of this Act. Not later than
60 days after the effective date of this order, the des-
ignated official shall submit to the Office of Management
and Budget a description of the agency’s revised consulta-
tion process in conformity with this Act.

SEC. 207. SENSITIVE TRIBAL INFORMATION.

Notwithstanding any provision of the Administrative
Procedures Act, consultation meetings shall be closed to
the public at the request of the Indian Tribal Government.
Notwithstanding any provision of the Freedom of Infor-
mation Act, all information designated by the Indian Tribe
as sensitive, such as the location of sacred sites or other
details of cultural or religious practices, shall be deleted
from any public publication made as part of the consulta-
tion process or in the process of carrying out the activity.

Once information has been designated as sensitive, the
agency will determine in consultation with the Indian
Tribe who may have access to the information for the pur-
poses of carrying out the mineral activity.

**TITLE III—ENVIRONMENTAL CONSIDERATIONS OF MIN-
ERAL EXPLORATION AND DE-
VELOPMENT**

**SEC. 301. GENERAL STANDARD FOR HARDROCK MINING ON FEDERAL LAND.**

Notwithstanding section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)),
the first section of the Act of June 4, 1897 (chapter 2; 30 Stat. 36; 16 U.S.C. 478), and the National Forest
Management Act of 1976 (16 U.S.C. 1600 et seq.), and
in accordance with this title and applicable law, unless ex-
pressly stated otherwise in this Act, the Secretary shall
ensure that mineral activities on any Federal land that
is subject to a mining claim, millsite claim, tunnel site
claim, or any authorization issued under title I of this Act
are carefully controlled to prevent undue degradation of
public lands and resources.
SEC. 302. PERMITS.

(a) PERMITS REQUIRED.—No person may engage in mineral activities on Federal land that may cause a disturbance of surface resources, including land, air, ground water and surface water, and fish and wildlife, unless a permit was issued to such person under this title authorizing such activities.

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

(c) COORDINATION WITH NEPA PROCESS.—To the extent practicable, the Secretary and the Secretary of Agriculture shall conduct the permit processes under this Act in coordination with the timing and other requirements under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 303. EXPLORATION PERMIT.

(a) AUTHORIZED EXPLORATION ACTIVITY.—Any applicant may apply for an exploration permit for any mining claim, license, or lease authorizing the applicant to remove a reasonable amount of the hardrock minerals, as defined in the license or lease or established in such regulations as the Secretary shall promulgate, from the area that is subject to the claim, license, or lease, respectively, for analysis, study, and testing. Such permit shall not au-
authorize the applicant to remove any mineral for sale nor
to conduct any activities other than those required for ex-
ploration for hardrock minerals and reclamation.

(b) Permit Application Requirements.—An ap-
lication for an exploration permit under this section shall
be submitted in a manner satisfactory to the Secretary
concerned, and shall contain an exploration plan, a re-
lamation plan for the proposed exploration, and such docu-
mentation as necessary to ensure compliance with applica-
ble Federal and State environmental laws and regulations.

(c) Reclamation Plan Requirements.—The re-
lamation plan required to be included in a permit applica-
tion under subsection (b) shall include such provisions as
may be jointly prescribed by the Secretary and the Sec-
retary of Agriculture by regulations. Such regulations
shall, at a minimum, require the following:

(1) The applicant has demonstrated that pro-
posed reclamation can be accomplished.

(2) The proposed exploration activities and con-
dition of the land after the completion of exploration
activities and final reclamation will conform with the
land use plan applicable to the area subject to min-
eral activities.

(3) The area subject to the proposed permit is
not included within an area listed in section 111.
(4) 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 concerned.

(5) The applicant has demonstrated that the requirements of section 306 will be met.

(6) The applicant is eligible to receive a permit under section 305.

(d) 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 10 years.

(e) 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.
(f) **TRANSFER, ASSIGNMENT, OR SALE OF RIGHTS.**—

(1) **PRIOR WRITTEN APPROVAL.**—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 concerned.

(2) **APPROVAL.**—Such Secretary shall 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 under section 304;

(B) has submitted evidence of financial assurance satisfactory under section 306; and

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

(3) **ASSUMED LIABILITY.**—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) **FEE.**—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.

SEC. 304. OPERATIONS PERMIT.

(a) Operations Permit.—(1) Any applicant that is in compliance with all provisions of this Act may apply to the Secretary concerned for an operations permit authorizing the applicant to carry out mineral activities, other than casual use, on—

(A) any valid mining claim, valid millsite claim, valid tunnel site claim, or lease issued under this Act; and

(B) such additional Federal land as the Secretary may determine is necessary to conduct the proposed mineral activities, if the operator obtains a right-of-way permit for use of such additional lands under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and agrees to pay all fees required under that title for the permit under that title.
(2) If the Secretary decides to issue such permit, 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 site characterization data, an operations plan, a reclamation plan, monitoring plans, long-term maintenance plans, to the extent necessary, and such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations. If the proposed mineral activities will be carried out in conjunction with mineral activities on adjacent non-Federal lands, information on the location and nature of such operations may be required by the Secretary.

(e) Permit Issuance or Denial.—(1) After providing for public participation pursuant to subsection (i), the Secretary concerned shall issue an operations permit if such Secretary makes each of the following determinations in writing, and shall deny a permit if such Secretary finds that the application and applicant do not fully meet the following requirements:

(A) The permit application, including the site characterization data, operations plan, and reclamation plan, are complete and accurate and sufficient
for developing a good understanding of the anticipated impacts of the mineral activities and the effectiveness of proposed mitigation and control.

(B) The applicant has demonstrated that the proposed reclamation in the operation and reclamation plan can be and is likely to be accomplished by the applicant and will not cause undue degradation.

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

(D) The area subject to the proposed plan is not listed in section 111 or otherwise ineligible for mineral activities.

(E) The proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

(F) The applicant will fully comply with the requirements of section 306 prior to the initiation of operations.

(G) Neither the applicant nor operator, nor any subsidiary, affiliate, or person controlled by or under
common control with the applicant or operator, is ineligible to receive a permit under section 305.

(H) The reclamation plan demonstrates that 10 years following mine closure, no treatment of surface or ground water for carcinogens or toxins will be required to meet water quality standards at the point of discharge.

(2) With respect to any activities specified in the reclamation plan referred to in subsection (b) that constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), the Secretary shall consult with the Administrator of the Environmental Protection Agency prior to the issuance of an operations permit. The Administrator of the Environmental Protection Agency shall ensure that the reclamation plan does not require activities that would increase the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) or corrective actions under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(d) TERM OF PERMIT; RENEWAL.—

(1) IN GENERAL.—An operations permit—
(A) shall be for an initial term not longer than the shorter of—

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

(ii) the length of time remaining on the applicant’s hardrock mining lease;

(B) shall be renewed for an additional 10-year period if the operation is in compliance with the requirements of this Act and other applicable law; and

(C) shall expire 5 years following the commencement of a temporary cessation unless, prior to the expiration of the 5 years, the mine operator has filed with the Secretary a request for approval to resume operations.

(2) Failure to commence mineral activities.—Failure by the operator to commence mineral activities within 2 years of the date scheduled in an operations permit shall require a modification of the permit if the Secretary concerned determines that modifications are necessary to comply with section 111.

(e) Permit Modification.—
(1) APPLICATION.—During the term of an operations permit the operator may submit an application to modify the permit (including the operations plan or reclamation plan).

(2) MODIFICATION BY THE SECRETARY CONCERNED.—The Secretary concerned 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 public notice and hearing requirements established by the Secretary concerned.

(3) UNANTICIPATED EVENTS OR CONDITIONS.—A permit modification is required before changes are made to the approved plan of operations, or if unanticipated events or conditions exist on the mine site, including in the case of—

(A) development of acid or toxic drainage;

(B) loss of springs or water supplies;

(C) water quantity, water quality, or other resulting water impacts that are significantly different than those predicted in the application;
(D) the need for long-term water treatment;

(E) significant reclamation difficulties or reclamation failure;

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

(G) the discovery of hazards to public safety.

(f) TEMPORARY CESSATION OF OPERATIONS.—

(1) SECRETARIAL APPROVAL REQUIRED.—An operator conducting mineral activities under an operations permit in effect under this title may not temporarily cease mineral activities for a period greater than 180 days unless the Secretary concerned has approved such temporary cessation or unless the temporary cessation is permitted under the original permit.

(2) PREVIOUSLY ISSUED OPERATIONS PERMITS.—Any operator temporarily ceasing mineral activities for a period greater than 90 days under an operations permit issued before the date of the enactment of this Act shall submit, before the expiration of such 90-day period, a complete application for temporary cessation of operations to the Sec-
retary concerned for approval unless the temporary cessation is permitted under the original permit.

(3) REQUIRED INFORMATION.—An application for approval of temporary cessation of operations shall include such information required under subsection (b) and any other provisions prescribed by the Secretary concerned 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.

(4) CONDITIONS FOR APPROVAL.—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 protect 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.

(g) PERMIT REVIEWS.—The Secretary concerned shall review each permit issued under this section every 10 years during the term of such permit, and before approving the resumption of operations under subsection (f), such Secretary shall 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.
(h) Transfer, Assignment, or Sale of Rights.—

1. Written Approval.—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 concerned.

2. Conditions of Approval.—The Secretary concerned 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) has submitted all required information and is eligible to receive a permit in accordance with section 305;

(B) has submitted evidence of financial assurance satisfactory under section 306; and

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

3. Assumed Liability.—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) Fee.—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 concerned in such amount as may be established by such Secretary. Such amount shall be equal to the actual or anticipated cost of reviewing and approving or disapproving such transfer, assignment, or sale, as determined by such Secretary.

(i) Public Participation.—The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations to ensure transparency and public participation in permit decisions required under this Act, consistent with any requirements that apply to such decisions under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 305. 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), any claim, license, or lease holder (if different than the applicant) of the claim, license, or lease 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 State or Federal 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 et seq.) or any regulation implementing that Act at any site where surface coal mining operations have occurred or are occurring.

(b) SUSPENSION.—The Secretary concerned shall suspend 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) REINSTATEMENT.—The Secretary concerned 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 and the regulatory authority involved 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) Conditional Approval.—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 may be issued under this Act to any applicant if there is a demonstrated pattern of willful violations of the environmental protection requirements of this Act by the applicant, any affiliate of the applicant, or the operator or claim, license, or lease holder if different than the applicant.

SEC. 306. FINANCIAL ASSURANCE.

(a) Financial Assurance Required.—

(1) Form of Assurance.—After a permit is issued under this title and before any exploration or
operations begin under the permit, the operator shall file with the Secretary concerned evidence of financial assurance payable to the United States. The financial assurance shall be provided in the form of a surety bond, a trust fund, letters of credits, government securities, certificates of deposit, cash, or an equivalent form approved by such Secretary.

(2) COVERED ACTIVITIES.—The financial assurance shall cover all lands within the initial permit area and all affected waters that may require restoration, treatment, or other management as a result of mineral activities, and shall be extended to cover all lands and waters added pursuant to any permit modification made under section 303(e) or section 304(e), or affected by mineral activities.

(b) AMOUNT.—The amount of the financial assurance required under this section shall be sufficient to assure the completion of reclamation and restoration satisfying the requirements of this Act if the work were to be performed by the Secretary concerned in the event of forfeiture, including the construction and maintenance costs for any treatment facilities necessary to meet Federal and State environmental requirements. The calculation of such amount shall take into account the maximum level of financial exposure which shall arise during the mineral ac-
tivity and administrative costs associated with a government agency reclaiming the site.

(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 reclamation, restoration, and long-term maintenance, 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 304(f), but the financial assurance shall otherwise be in compliance with this section. The Secretary concerned shall review the financial guarantee every 3 years and as part of the permit application review under section 304(g).

(e) RELEASE.—Upon request, and after notice and opportunity for public comment, and after inspection by the Secretary concerned, 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 or restoration covered by the financial assurance has been accomplished as required by this Act.

(2) A determination that the terms and conditions of any other applicable Federal requirements, and State requirements applicable pursuant to cooperative agreements under section 308, 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 except that sufficient assurance must be retained to address other required reclamation and restoration needs and to assure the long-term success of the revegetation.

(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, and all other requirements
of this Act have been fully met, the remaining por-
tion of the financial assurance may be released.

During the period following release of the financial assur-
ance 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.—Notwithstanding section 307(b)(4),
where any discharge or other water-related condition re-
sulting from the mineral activities requires treatment in
order to meet the applicable effluent limitations and water
quality standards, the financial assurance shall include the
estimated cost of maintaining such treatment for the pro-
jected 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 for a period of
5 years, as determined by ongoing monitoring and testing,
or, if the discharge continues, until the operator has met
all applicable effluent limitations and water quality stand-
ards for 5 full years without treatment.

(h) Environmental Hazards.—If the Secretary
concerned determines, after final release of financial as-
surance, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the explorations or operations permit of this Act were not fulfilled in fact at the time of release, such Secretary shall issue an order under section 606 requiring the claim holder or operator (or any person who controls the claim holder or operator) to correct the condition such that applicable laws and regulations and any conditions from the plan of operations are met.

SEC. 307. OPERATION AND RECLAMATION.

(a) General Rule.—(1) 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 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 concerned.

(2) Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. In the case of a cessation of mineral activities beyond that provided for as a temporary cessation under this Act, reclamation activities shall begin immediately.
(b) Operation and Reclamation Standards.—

The Secretary of the Interior and the Secretary of Agriculture shall jointly promulgate regulations that establish operation and reclamation standards for mineral activities permitted under this Act. The Secretaries may determine whether outcome-based performance standards or technology-based design standards are most appropriate. The regulations shall address the following:

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

2. Maintenance of the stability of all surface areas.

3. Control of sediments to prevent erosion and manage drainage.

4. Minimization of the formation and migration of acidic, alkaline, metal-bearing, or other deleterious leachate.

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

6. Establishment of a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities,
and equal in extent of cover to the natural vegetation of the area.

(7) Design and maintenance of leach operations, impoundments, and excess waste according to standard engineering standards to achieve and maintain stability and reclamation of the site.

(8) Removal of structures and roads and sealing of drill holes.

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

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

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

(c) Surface or Ground Water Withdrawals.—

The Secretary concerned shall work with State and local governments with authority over the allocation and use of surface and ground water in the area around the mine site as necessary to ensure that any surface or ground water withdrawals made as a result of mining activities approved under this section do not cause undue degradation.

(d) Special Rule.—Reclamation activities for a mining claim, license, or lease that has been forfeited, relinquished, or lapsed, or a plan that has expired or been
revoked or suspended, shall continue subject to review and
approval by the Secretary concerned.

SEC. 308. STATE LAW AND REGULATION.

(a) State Law.—

(1) Reclamation, land use, environmental, and public health standards.—Any
reclamation, land use, environmental, or public
health protection standard or requirement in State
law or regulation that meets or exceeds the require-
ments of this Act shall not be construed to be incon-
sistent with any such standard.

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

(3) Inspection standards.—Any inspection
standard or requirement in State law or regulation
that meets or exceeds the requirements of this Act
shall not be construed to be inconsistent with such
requirements.

(b) Applicability of Other State Require-
ments.—

(1) Environmental standards.—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, county, local, or Tribal law or regulation, which may be applicable to mineral activities on lands subject to this Act.

(2) WATER RESOURCES.—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) IN GENERAL.—Any State may enter into a cooperative agreement with the Secretary concerned 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) COMMON REGULATORY FRAMEWORK.—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 requirements of this Act for the pur-
poses of such plan of operations. Any such common
regulatory framework shall not negate the authority
of the Federal Government to independently inspect
mines and operations and bring enforcement actions
for violations.

(3) NOTICE AND PUBLIC COMMENT.—The Sec-
retary 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 and hearing.

(d) PRIOR AGREEMENTS.—Any cooperative agree-
ment or such other understanding between the Secretary
concerned and any State, or political subdivision thereof,
relating to the 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 1
year after the date of enactment of this Act. During such
1-year period, the State and the Secretary shall review the
terms of the agreement and make changes that are nec-
essary to be consistent with this Act.
TITLE IV—ABANDONED

HARDROCK MINE RECLAMATION

SEC. 401. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury a separate account to be known as the Hardrock Minerals Reclamation Fund.

(b) INVESTMENT.—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.

(c) ADMINISTRATION.—In addition to other uses authorized by this title, the Secretary may use amounts in the Fund as necessary for the administrative expenses of the United States, Indian Tribes, and the States to implement this title.

SEC. 402. CONTENTS OF FUND.

The following amounts shall be credited to the Fund:

(1) All moneys collected pursuant to section 502 and section 506.
(2) All fees received under section 304(a)(1)(B).

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

(4) All amounts deposited in the Fund under title I.

(5) All income on investments under section 401(b).

(6) All amounts deposited in the Fund under section 403.

SEC. 403. DISPLACED MATERIAL RECLAMATION FEE.

(a) IMPOSITION OF FEE.—Except as provided in subsection (g), each operator conducting hardrock mineral activities shall pay to the Secretary, for deposit in the Hardrock Minerals Fund established by section 502, a displaced material reclamation fee of 7 cents per ton of displaced material.

(b) PAYMENT DEADLINE.—Such reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(e) SUBMISSION OF STATEMENT.—Together with such reclamation fee, all operators conducting hardrock mineral activities shall submit to the Secretary a state-
ment of the amount of displaced material produced during
mineral activities during the previous calendar year, the
accuracy of which shall be sworn to by the operator and
notarized.

(d) Penalty.—Any corporate officer, agent, or di-
rector of a person conducting hardrock mineral activities,
and any other person acting on behalf of such a person,
who knowingly makes any false statement, representation,
or certification, or knowingly fails to make any statement,
representation, or certification, required under this section
with respect to such operation shall, upon conviction, be
punished by a fine of not more than $10,000.

(e) Civil Action To Recover Fee.—Any portion
of such reclamation fee not properly or promptly paid pur-
suant to this section shall be recoverable, with statutory
interest, from the hardrock mineral activities operator, in
any court of competent jurisdiction in any action at law
to compel payment of debts.

(f) Effect.—Nothing in this section requires a re-
duction in, or otherwise affects, any similar fee required
under any law (including regulations) of any State.

(g) Exemption.—The fee under this section shall
not apply for small miners.

24 SEC. 404. USE AND OBJECTIVES OF THE FUND.

(a) Authorized Uses.—
(1) IN GENERAL.—The Secretary may, subject to appropriations, use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past hardrock mineral activities and related activities on lands described in section 405, including any of the following:

(A) Protecting public health and safety.

(B) Preventing, abating, treating, and controlling water pollution created by abandoned mine drainage, including in river watershed areas.

(C) Reclaiming and restoring abandoned surface and underground mined areas.

(D) Reclaiming and restoring abandoned milling and processing areas.

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

(F) Revegetating land adversely affected by past mineral activities in order to prevent erosion and sedimentation, to enhance wildlife habitat, and for any other reclamation purpose.

(G) Controlling surface subsidence due to abandoned underground mines.

(H) Enhancing fish and wildlife habitat.
(2) MANNER OF USE.—Amounts in the Fund may—

(A) be expended by the Secretary for the purposes described in paragraph (1);

(B) be transferred by the Secretary to the Director of the Bureau of Land Management, the Chief of the Forest Service, the Director of the National Park Service, the Director of the United States Fish and Wildlife Service, the head of any other Federal agency, or 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; or

(C) be transferred by the Secretary to an Indian Tribe or a State to carry out a reclamation program under this title that meets the purposes described in paragraph (1).

(b) ALLOCATION.—Of the amounts deposited into the Fund—

(1) 25 percent shall be allocated for expenditure by the Secretary in States or on Tribal lands within the boundaries of which occurs production of hardrock minerals or mineral concentrates or products derived from hardrock minerals, based on a for-
mula reflecting existing production in each such
State or on the land of the Indian Tribe;

(2) 25 percent shall be allocated for expenditure
by the Secretary in States or on Tribal lands based
on a formula reflecting the quantity of hardrock
minerals, or mineral concentrates or products de-
derived from hardrock minerals, historically produced
in each such State or from the land of the Indian
Tribe before the date of enactment of this Act; and

(3) 50 percent shall be allocated for expenditure
by the Secretary to address high-priority needs ac-
cording to the priorities in subsection (c).

(c) PRIORITIES.—Expenditures of moneys from the
Fund shall reflect the following priorities in the order stated:

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

(2) The protection of public health and safety
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, which may include
restoration activities in river watershed areas.
(d) HABITAT.—Reclamation and restoration activities under this title shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence before the commencement of such activities.

(e) RESPONSE OR REMOVAL ACTIONS.—Reclamation and restoration activities under this title that constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) 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, that provide assurances that reclamation or restoration activities under this title 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 (42 U.S.C. 9601 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.
SEC. 405. ELIGIBLE LANDS AND WATERS.

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

(1) Lands and water resources that 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.

(b) INVENTORY.—The Secretary shall prepare and maintain a publicly available inventory of abandoned hardrock minerals mines on public lands and any abandoned mine on Indian lands that may be eligible for expenditures under this title, and shall submit an annual report to the Congress on the progress in cleanup of such sites.
SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

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

TITLE V—ADDITIONAL PROVISIONS

SEC. 501. POLICY FUNCTIONS.

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

(1) by inserting “and to ensure that mineral extraction and processing not cause undue degradation of the natural and cultural resources of the public lands” after “activities”; and

(2) by adding at the end the following: “It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of clauses (1) and (2) of the first paragraph 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(e)(3)) 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 public land use decision-making”.
SEC. 502. USER FEES AND INFLATION ADJUSTMENT.

(a) IN GENERAL.—The Secretary and the Secretary of Agriculture may each 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.

(b) ADJUSTMENT.—

(1) INFLATION.—The Secretary shall adjust the fees required by this section, and all claim maintenance fees, rental rates, penalty amounts, and other dollar amounts established in this Act, to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 3 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) NOTICE.—The Secretary shall provide claimants, license holders, and lease holders notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.
(3) APPLICABILITY.—A fee adjustment under this subsection shall begin to apply the calendar year following the calendar year in which it is made.

SEC. 503. INSPECTION AND MONITORING.

(a) INSPECTIONS.—

(1) IN GENERAL.—The Secretary concerned shall make inspections of mineral activities so as to ensure compliance with the requirements of this Act.

(2) FREQUENCY.—The Secretary concerned shall establish a frequency of inspections for mineral activities conducted under a permit issued under title III, 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 304(f). After revegetation has been established in accordance with a reclamation plan, such Secretary shall conduct 2 complete inspections annually. 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) BY REQUEST.—
(A) In General.—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 requirements of a permit approved under this Act may request an inspection.

(B) Review Period.—The Secretary concerned shall determine within 10 working days of receipt of the request whether the request states a reason to believe that a violation exists.

(C) Imminent Threat.—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.

(D) Notification.—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.
(E) LIABILITY.—The Secretary shall not incur any liability for allowing such person to accompany an authorized representative.

(F) ANONYMITY.—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.

(G) PROCEDURES.—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.

(H) WRITTEN STATEMENT.—The Secretary concerned shall furnish a person requesting a review a written statement of the reasons for the Secretary's final disposition of the case.

(b) MONITORING.—

(1) MONITORING SYSTEM.—The Secretary concerned shall require all operators to develop and
maintain a monitoring and evaluation system that shall identify compliance with all requirements of a permit approved under this Act. The Secretary concerned may require additional monitoring to be conducted as necessary to assure compliance with the reclamation and other environmental standards of this Act. Such plan must be reviewed and approved by the Secretary and shall become a part of the explorations or operations permit.

(2) REPORTING REQUIREMENTS.—The operator shall file reports with the Secretary concerned, 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 requirements of a permit approved under this Act, it shall be reported immediately to the Secretary concerned. 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. Such reports shall be maintained by the operator and by the Secretary and shall be made available to the public.

(3) FAILURE TO REPORT.—The Secretary concerned shall determine what information shall be re-
ported by the operator pursuant to paragraph (2). 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 506.

SEC. 504. CITIZENS SUITS.

(a) IN GENERAL.—Except as provided in subsection (c), any person 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) who is alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or any term or condition of any lease, license, or permit issued under 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 this Act, or to promulgate any regulation under this Act, which is not within the discretion of the Secretary concerned.

(b) DISTRICT COURT JURISDICTION.—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 juris-
diction to compel agency action unreasonably delayed, ex-
cept that an action to compel agency action reviewable
under section 505 may only be filed in a United States
district court within the circuit in which such action would
be reviewable under section 505.

(c) Exceptions.—

(1) Notice.—No action may be commenced
under subsection (a) before the end of the 60-day
period beginning on the date the plaintiff has given
notice in writing of such alleged violation to the al-
leged violator and the Secretary concerned, 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) On-going litigation.—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 dili-
gently prosecuting a civil or criminal action in a
court of the United States to require compliance.

(3) Exception.—No action may be commenced
under subsection (a)(2) 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 505 or under any other provision of
law at any time after such promulgation, issuance,
or denial is final.

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

(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 party whenever the court determines such
award is appropriate. The court may, if a temporary re-
straining 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, United States Code,
under this section, or under any other statute or common
law to bring an action to seek any relief against the Sec-
retary 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, 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.

SEC. 505. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Review by Secretary.—

(1) Notice of violation.—Any person issued a notice of violation or cessation order under section 507, or any person having an interest which is or may be adversely affected by such notice or order, may apply to the Secretary concerned for review of the notice or order within 30 days after receipt thereof, or as the case may be, within 30 days after such notice or order is modified, vacated, or terminated.

(2) Review of penalty.—Any person who is subject to a penalty assessed under section 507 may apply to the Secretary concerned for review of the assessment within 45 days of notification of such penalty.

(3) Third party requests.—Any person may apply to the Secretary concerned for review of a de-
cision under this subsection within 30 days after such decision is issued.

(4) STAYS PENDING REVIEW.—Pending a review by the Secretary or resolution of an administrative appeal, final decisions (except enforcement actions under section 507) shall be stayed.

(5) PUBLIC HEARING.—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 506.

(6) WRITTEN DECISION.—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 506 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 (5), whichever is later, un-
less temporary relief has been granted by the Sec-
retary concerned under paragraph (7).

(7) TEMPORARY RELIEF.—Pending completion
of any review proceedings under this subsection, the
applicant may file with the Secretary concerned a
written request that the Secretary grant temporary
relief from any order issued under section 506 to-
gether with a detailed statement giving reasons for
such relief. The Secretary concerned shall expedi-
tiously issue an order or decision granting or deny-
ing such relief. The Secretary concerned may grant
such relief under such conditions as he or she may
prescribe only if such relief shall not adversely affect
the health or safety of the public or cause imminent
environmental harm to land, air, or water resources.

(8) SAVINGS CLAUSE.—The availability of re-
view under this subsection shall not be construed to
limit the operation of rights under section 504.

(b) JUDICIAL REVIEW.—

(1) COURT OF APPEALS FOR THE DISTRICT OF
COLUMBIA.—Any final action by the Secretaries of
the Interior and Agriculture in promulgating regula-
tions to implement this Act, or any other final ac-
tions 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 60th 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) STANDARD OF REVIEW.—Final agency action under this subsection, 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 section 1391 of title 28, 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) SAVINGS CLAUSE.—The availability of judicial review established in this subsection shall not be construed to limit the operations of rights under section 504.

(4) RECORD.—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) COMMENCE OF A PROCEEDING NOT A STAY.—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. 506. REPORTING REQUIREMENTS.

(a) Report to Secretary.—An operator engaging in any mineral activities located on Federal land or on Indian land shall submit to the Secretary an annual report, in a time and manner prescribed by the Secretary, describing the total amount (in metric tons) and value of hardrock minerals produced through such mineral activities, including the total amount and value of any minerals produced from a mine partially located on either Federal land or Indian land, disaggregated by mineral and by percentage extracted from Federal land and percentage extracted from Indian land.

(b) Failure to Report.—Any person who fails to comply with the requirements of subsection (a) shall be subject to a civil penalty not to exceed $25,000 per day (indexed for inflation) during which such failure continues, which may be assessed by the Secretary.

(c) Report to Congress.—The Secretary shall submit an annual report to Congress providing the fol-
lowing information for each hardrock mine located on Federal land or on Indian land:

(1) The data submitted for such mine under subsection (a).

(2) The name of the mine operator.

(3) The State in which such mine is located.

(4) The Bureau of Land Management Field Office with jurisdiction over such mine.

(5) Whether such mine is located on Federal land.

(6) Whether such mine is located on Indian land.

(d) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section not later than 180 days after the date of the enactment of this Act.

SEC. 507. ENFORCEMENT.

(a) ORDERS.—

(1) NOTICE OF VIOLATION.—If the Secretary concerned, or an authorized representative of such Secretary, determines that any person is in violation of any environmental protection requirement or any regulation issued by the Secretaries to implement this Act, such Secretary or authorized representative shall issue to such person a notice of violation de-
scribing 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 or she shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) ORDER FOR IMMEDIATE CESSATION.—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 requirement under a permit approved under this Act, and such condition, practice or violation is causing, or can reasonably be expected to cause either of the following, such Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice, or violation:
(A) An imminent danger to the health or safety of the public.

(B) Significant, imminent environmental harm to land, air, water, or fish or wildlife re-

(3) DURATION.—

(A) TERMINATION.—A cessation order pursuant to paragraph (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 Sec-
retary or authorized representative. In any such order, the Secretary or authorized representa-
tive shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary meas-
ures in the order.

(B) FINANCIAL ASSURANCES.—The Sec-
retary concerned shall require appropriate fi-
ancial assurances to ensure that the abate-
ment obligations are met when issuing an order under this section..

(C) AUTHORITY OF THE SECRETARY.—
Any notice or order issued pursuant to para-
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graph (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) ALTERNATIVE ENFORCEMENT ACTION.—If,
after 30 days of the date of the order referred to in
subsection (a) the required abatement has not oc-
curred, the Secretary concerned shall take such al-
ternative enforcement action against the claim hold-
er, license holder, lease holder, or operator (or any
person who controls the claim holder, license holder,
lease holder, or operator) as will most likely bring
about abatement in the most expeditious manner
possible. Such alternative enforcement action may
include seeking appropriate injunctive relief to bring
about abatement. Nothing in this paragraph shall
preclude the Secretary concerned from taking alter-
native enforcement action prior to the expiration of
30 days.

(5) FAILURE OR DEFAULT.—If a claim holder,
license holder, lease holder, or operator (or any per-
son who controls the claim holder, license holder,
lease holder, or operator) fails to abate a violation
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or defaults on the terms of the permit, the Secretary
concerned shall forfeit the financial assurance for
the plan as necessary to ensure abatement and recla-
mination under this Act. The Secretary concerned
may prescribe conditions under which a surety may
perform reclamation in accordance with the ap-
proved plan in lieu of forfeiture.

(6) PENDING REVIEW.—The Secretary con-
cerned shall not cause forfeiture of the financial as-
surance while administrative or judicial review is
pending.

(7) LIABILITY IN THE EVENT OF FOR-
FEITURE.—In the event of forfeiture, the claim hold-
er, license holder, lease holder, operator, or any affil-
iate 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 concerned may re-
quest 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 dis-
trict 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 503.

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.

(e) 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) FAILURE TO COMPLY WITH REQUIREMENTS OF A PERMIT.—Any person who fails to comply with any requirement of a permit approved under this Act or any regulation issued by the Secretaries to implement this Act 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) FAILURE TO COMPLY WITH A CESSION ORDER.—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.

(3) PENALTIES FOR DIRECTORS, OFFICERS, AND AGENTS.—Whenever a corporation is in violation of a requirement of a permit approved under this Act or any regulation issued by the Secretaries to implement this Act 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 concerned shall suspend or revoke a permit issued under title II, in whole or in part, if the operator—

(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 re-
quired to be maintained under this Act;

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

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

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

(5) fails to maintain an adequate financial as-
surance under section 306;

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

(7) with regard to plans conditionally approved
under section 305(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, rep-
resentation, 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 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 subsection, 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 requirement of a permit issued under this Act, or any 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 subsection, 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) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully commits an act for which a civil penalty is provided in paragraph (1) of subsection (g) 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 any officer, agent, or employee of a person.

SEC. 508. REGULATIONS.

The Secretary and the Secretary of Agriculture shall issue such regulations as are necessary to implement this Act. The regulations implementing titles II and III and this title that affect the Forest Service shall be joint regulations issued by both Secretaries, and shall be issued not later than 180 days after the date of enactment of this Act.

SEC. 509. OIL SHALE CLAIMS.


(1) by striking “as prescribed by the Secretary”; and
(2) by inserting before the period the following:

“in the same manner as required by title II of the Hardrock Leasing and Reclamation Act of 2019”.

SEC. 510. SAVINGS CLAUSE.

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, 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 for protection of natural and cultural resources and the environment greater than required under this Act, and any such prior law shall remain in force and effect with respect to claims converted to leases 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 (42
(b) Effect on Other Federal Laws.—

(1) General Mining Laws.—The provisions of this Act shall supersede the general mining laws.

(2) Other Laws.—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.

(3) Environmental Laws.—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—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) title XIV of the Public Health Service Act (the Safe Drinking Water Act) (42 U.S.C. 300f et seq.);

(C) the Clean Air Act (42 U.S.C. 7401 et seq.);
(D) the Pollution Prevention Act of 1990
(42 U.S.C. 13101 et seq.);

(E) the Toxic Substances Control Act (15
U.S.C. 2601 et seq.);

(F) the Federal Insecticide, Fungicide, and
Rodenticide Act (7 U.S.C. 136 et seq.);

(G) the Federal Food, Drug, and Cosmetic
Act (21 U.S.C. 301 et seq.);

(H) the Motor Vehicle Information and
Cost Savings Act (15 U.S.C. 1901 et seq.);

(I) the Federal Hazardous Substances Act
(15 U.S.C. 1261 et seq.);

(J) the Endangered Species Act of 1973
(16 U.S.C. 1540);

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

(L) the Noise Control Act of 1972 (42
U.S.C. 4901 et seq.);

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

(N) the Comprehensive Environmental Re-
response, Compensation, and Liability Act of
1980 (42 U.S.C. 9601 et seq.);
(O) the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499; 100 Stat. 1613);

(P) the Ocean Dumping Act (33 U.S.C. 1401 et seq.);

(Q) the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365);

(R) the Pollution Prosecution Act of 1990 (42 U.S.C. 4321 note; Public Law 101–593);

(S) the Federal Facilities Compliance Act of 1992 (Public Law 102—386; 106 Stat. 1505); and

(T) any statute containing an amendment to any of such Acts.

(4) FEDERAL INDIAN LAW.—Nothing in this Act shall be construed as modifying or affecting any provision of—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(B) American Indian Religious Freedom Act (42 U.S.C. 1996);

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

(c) SOVEREIGN IMMUNITY OF INDIAN TRIBES.—Nothing in this section shall be construed so as to waive the sovereign immunity of any Indian Tribe.

SEC. 511. 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, United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activities or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities and on the internet.

SEC. 512. MISCELLANEOUS POWERS.

(a) IN GENERAL.—In carrying out his or her duties under this Act, the Secretary concerned 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 or her 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 Sec-
retary of Agriculture, is authorized to take any of the fol-
lowing actions:

(1) Require, by special or general order, any
person to submit in writing such affidavits and an-
swers 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 ma-
terials, as such Secretary may request.

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

(e) 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 Sec-
retary concerned or any authorized representative there-
of—

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

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

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

(4) may, on any mining claim, license, or lease
maintained in compliance with this Act, and without
advance notice, stop and inspect any motorized form of transportation that such Secretary has probable cause to believe is carrying hardrock 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 hardrock 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, stop and inspect any motorized form of transportation which is not on a claim site if he or she has probable cause to believe such vehicle is carrying hardrock minerals, concentrates, or products derived therefrom from a claim site, license, or lease on Federal lands or allocated to such claim site, license, or lease. 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. 513. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended—
(1) in the heading, by striking "OR CINDERS"
and inserting "CINDERS, AND CLAY";

(2) by striking "No" and inserting "(a) No";

(3) by inserting "mineral materials, including"
after "varieties of";

(4) by striking "or cinders" and inserting "cinders, and clay"; and

(5) by adding at the end the following:

"(b)(1) Subject to valid existing rights, after the date
of enactment of the Hardrock Leasing and Reclamation
Act of 2019, notwithstanding the reference to common va-
rieties in subsection (a) and to the exception to such term
relating to a deposit of materials with some property giv-
ing 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 sub-
ject to disposal only under the terms and conditions of

"(2) For purposes of paragraph (1), the term 'valid
existing rights' means that a mining claim located for any
such mineral material—

"(A) had and still has some property giving it
the distinct and special value referred to in sub-
section (a), or as the case may be, met the definition
of block pumice referred to in such subsection;
“(B) was properly located and maintained under the general mining laws prior to the date of enactment of the Hardrock Leasing and Reclamation Act of 2019; and

“(C) 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 Hardrock Leasing and Reclamation Act of 2019.”.

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

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

(2) in subsection (c) by inserting “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 et seq.) 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 et seq.) 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 (chapter 375; 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 (chapter 186; 31 Stat. 745; 30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.

Sec. 514. Effective Date.

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