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JUN 3 1975

THE WHITE HOUSE  
WASHINGTON

Date

6/2

TO:

John Marsh

FROM: CHARLES LEPPERT

Please Handle

For Your Information

✓

Per Our Conversation

Other:

✓



THE WHITE HOUSE

WASHINGTON

June 2, 1975

Dear Mrs. Mink and Mr. Udall:

In reply to your joint letter of May 22, addressed to the President, this is to advise you that individuals from the Administration will be made available on June 3 for the scheduled hearings before the Subcommittees on Energy and Environment and Mines and Mining.

The basis for the President's veto of H.R. 25 was stated in his memorandum of May 20, and it would be inappropriate to furnish any further information about considerations which may have contributed to the President's decision. The action taken by the President and the Memorandum of Disapproval sent to the Congress constitute the information provided in regard to all such Presidential decisions.

In reply to a letter of May 30, 1975, on the same subject from Congressman Udall, I can report that I am advised that among the Administration witnesses available for testifying at your scheduled hearing of June 3, 1975, will be the following individuals who were responsible for developing the figures with which you are concerned:

John Hill	Deputy Administrator, Federal Energy Administration
Eric Zausner	Acting Deputy Administrator, FEA
Dr. Tom Falkie	Director, Bureau of Mines, Department of Interior
Raymond Peck	Office of General Counsel, Department of Commerce

They will be accompanied by at least the following:

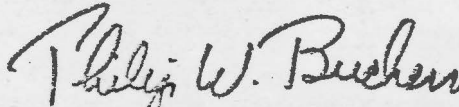
Al Cook	Director, Economic Analysis, FEA
Dan Jones	Office of Coal, FEA
Jim Paone	Bureau of Mines, Department of Interior



The six additional individuals named with the letter of May 30 will also be available to testify to the extent of their participation, if any, in the development of the figures.

Also, I am advised that the Subcommittee staffs already have in hand materials which explain how estimates were made of the adverse impacts on production, reserves, and employment that enactment of H.R. 25 would produce. These materials were presented in the form of a letter on May 23, 1975, from Thomas V. Falkie, Director of the Bureau of Mines, to Senator Metcalf, along with two attachments, and copies have been furnished to your staffs.

Sincerely,



Philip W. Buchen  
Counsel to the President

The Honorable Patsy T. Mink  
House of Representatives  
Washington, D.C. 20515

The Honorable Morris K. Udall  
House of Representatives  
Washington, D.C. 20515





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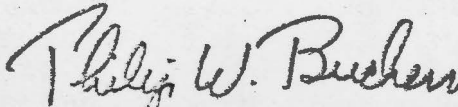
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House of Representatives  
Washington, D.C. 20515



JUN 6 1975

J. ALLEN OVERTON, JR.  
PRESIDENT

AMERICAN MINING CONGRESS  
RING BUILDING  
WASHINGTON, D. C. 20036

202/331-8900

PRESS CONTACT: Stan Scoville  
225-8331  
Bob Neuman  
225-4065

FOR RELEASE: Friday, a.m.  
June 6, 1975

### UDALL STEPS UP STRIP MINE DEFENSE FIGHT

Stepping up his defense of the vetoed strip mine bill, Rep. Morris K. Udall, D-Ariz., today called on his colleagues to vote to override the veto next Tuesday on the basis of information disclosed at hearings held this week.

"In a sense," Udall said, "the information produced in these hearings is much like the evidence elicited at the Watergate hearings ...the evidence was overwhelming to most people but many others waited for the discovery of the 'smoking pistol'.

"Our hearing produced no smoking pistol, but it did establish a record that Mr. Ford was given some pretty bad advice which his advisors are now trying to cover up with verbal bobbing and weaving.

"Their footwork was pretty fancy," Udall said, "but I hope that my colleagues will make their decision on the basis of the record which demonstrates that the President's charges (in justifying the veto) are without merit."

In the letter to House members Udall said the hearings resulted in four major points:

- . critical Administration assumptions were rejected by the Department of Interior witnesses who testified under oath.
- . the Administration apparently wants no surface mining regulation bill according to key advisors.
- . despite assertions that enactment would cost jobs and coal production, the White House has not provided any evidence to substantiate the charges.
- . contrary to the general impression, huge increases in utility rates would not come from costs of the legislation, but from increased purchase of substitute oil -- even though vast coal reserves await mining in an environmentally sound manner.

Udall said "there will be no further compromises on strip mining legislation. This is an eminently fair and restrained bill and is worthy of enactment into law."



**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

Dear Colleague:

June 5, 1975

Last Tuesday the Interior Committee gave Mr. Zarb and Mr. Morton and a phalanx of Administration experts an opportunity to defend the President's veto of the strip mining bill. I believe that under the hard questioning of the Committee their justifications simply did not hold up.

The issues are complex, and a summary of the hearings is now being prepared for distribution to Members and staff, but I thought you might be interested in the principal points elicited in the day-long hearing:

(1) Critical Administration assumptions were flatly rejected by Department of Interior technical witnesses who were testifying under oath. The only hard evidence presented to the Committee of specific mines that would be affected by specific provisions of the Act are the large Western operations the Administration alleges are located on alluvial valley floors, and thus subject to the bill's special provisions designed to protect these important agricultural areas. Yet the Department of Interior experts, placed under oath, alleged that a number of these mines were not, in fact, on alluvial valley floors, and, moreover, that the Administration's interpretation of the meaning of that provisions is "unreasonable".

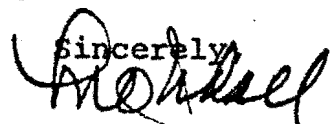
(2) Administration spokesmen indicated that even if Congress passed a full energy program acceptable to the President, they could not advise the President that he should sign the Administration's own strip mining bill. It has thus become apparent why the numerous Administration amendments adopted by the Congress in an attempt to reach a compromise position with the President has not resulted in approval--the principal Presidential advisors apparently don't want any bill!

(3) Although the President's chief objections were announced in terms of "production losses" and "job losses", under questioning it became clear that the Administration has very little evidence that there will really be any losses at all. Rather, they assume that the bill will be subject to harsh, arbitrary and overly stringent--even bizarre--interpretations by the courts, which will result in a maximum interference with coal production. Moreover, they assume that because some coal, in some areas, could not be mined as the land cannot be re-claimed, the resulting energy "loss" would have to be made up with imported oil rather than by simply choosing to mine the billions of tons of coal that can be mined under the Act.

(4) Contrary to the general impression, the huge increases in utility bills projected by the Administration are not based on costs associated with complying with the environmental standards of the Act. Rather, the Administration officials allege that if there is the "production loss" discussed above, the energy will have to be made up by purchasing additional expensive imported oil and it is the price of oil that will account for the bulk of the increased costs. Again, this notion is based on the fallacy that the energy industry is not capable of mining the billions of tons of coal that can be mined in an environmentally sound manner, but will prefer to rely on the importation of petroleum.

In a sense, the information produced in these hearings is much like the evidence elicited at the Watergate hearings. As you will remember, the evidence was overwhelming to most people but many others waited for the discovery of the "smoking pistol". Our hearing produced no smoking pistol, but it did establish a record that Mr. Ford was given some pretty bad advice which his advisors are now trying to cover up with verbal bobbing and weaving. Their footwork was pretty fancy, but I hope that my colleagues will make their decision on the basis of the record which demonstrates that the President's charges are without merit.

Sincerely,

  
Morris K. Udall



COMMENTARY BY ROBERT F. HURLEIGH  
Mutual Broadcasting System  
June 4, 1975



Things are getting curiouiser and curiouiser, if we may borrow a line from "Alice in Wonderland" to describe the attempts by supporters of the "Strip Mining Bill" to over-ride the President's veto. Congressman Morris Udall, one of the many Democrats anxious to be President of the United States, if it could so be managed, is the chief architect of the "anti-energy Strip Mining Bill". Congressman Udall has said repeatedly that the figures given by the Administration are wrong and that President Ford was given bad advice to veto the measure. When Commerce Secretary Morton appeared before the House Committee on which Mr. Udall sits he found the Arizona Democrat a hostile questioner who felt that Secretary Morton should not hold so tight to the Administration's assessment of the damage to the economy which will affect most consumers if the House over-rides the President's veto. Secretary Morton -- and his aides -- have stated that 36,000 jobs will be lost, and coal production would be cut if the Strip Mining Bill -- as written -- was passed over the veto. Congressman Udall bore in on the Secretary, trying to force an admission that Administration figures supporting the President were wrong, but with little or no success. Then came this curious observation by Congressman Udall, addressed to Secretary Morton: "You're guessing that we're going to lose all this coal and I'm guessing that we're not going to lose any". Mind you, Secretary Morton and Energy Chief Frank Zarb had come prepared with an analysis of the effect of the bill on jobs and production, but Mr. Udall called their statistics guess-work. But the curiouiser part of this statement is the absolute admission by Congressman Udall that he was guessing!

The nation is in a real energy bind -- dependent on foreign oil for 40 percent of the fuel consumed by us -- and needing coal to offset the costly and high risk, imported fuel -- and a congressman who sees himself as Presidential material admits he is guessing whether a bill before Congress can injure the consumer's need for lower cost energy and cost jobs as well. The public is becoming aware that the scare propaganda put out by the environmentalists skirt the fact that strip mining today is nothing like it was in years past: There are state laws in over twenty states where most of the coal will be mined and the mining companies do return the land to its verdancy. The vetoed bill's unfortunate terminology is so ambiguous, however, that it is being considered an "anti-energy" measure by its opponents who want Congress to busy itself in writing a reasonable and understandable law which will allow the nation to overcome its severe energy problems. So goes the world today.

Washington Post, Thursday, 5 June 1975

**A Communique from  
the National Iranian Oil Company**



FEB 28 1976

*Action  
Requested*

February 25 1976  
9:30 a.m.

*File*

## MEMORANDUM

TO: Chief Officers Concerned with Surface Mining

FROM: J. Allen Overton, Jr.

RE: Melcher Surface Mining Bill, H.R. 9725, Ordered Reported by House Interior Committee.

By a vote of 28 yeas to 11 nays, the House Interior Committee ordered H.R. 9725, surface mining legislation, reported to the full House of Representatives. (See attached tally sheet for vote of individual members.)

The Committee took less than an hour to complete action. Only two amendments were offered -- both by Congressman Melcher (D-MT), sponsor of the bill, and both were adopted. (See attachments 1 and 2 for text of amendments.) One amendment was merely to correct a printer's error (part of a paragraph had been omitted), and the other related to the prohibition of mining in alluvial valley floors west of the 100th meridian, west longitude. (A line which runs north and south through the middle of North Dakota.) With a few minor exceptions, the bill is identical to H.R. 25, the surface mining bill vetoed by the President last May, and which veto was sustained by the House of Representatives on June 10, 1975.

### -- Motion to Report --

Recognizing that there was no hope of obtaining the adoption of meaningful amendments which would transform this "prohibition in the guise of regulation" into an acceptable and realistic legislative formula for regulating surface mining reclamation, Congressman Skubitz (R-KS) announced his intention not to offer any amendments. Congressman Steiger (R-AZ) made the motion to report the bill. (See attached staff notes for further details.) None of the objections of the President which caused him to veto the measure have been corrected.

continued .



#### IAN MacGREGOR

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\*ANDREW FLETCHER, New York  
\*RAYMOND E. SALVATI, Ft. Lauderdale  
\*CRIS DOBBINS, Denver

\*Executive Committee  
\*Honorary



-- Reaction of AMC Chairman --

Upon hearing of the action of the House Interior Committee, Mr. Ian MacGregor, Chairman of AMC and of AMAX Inc., had the following comment:

We regret that the proposed bill has not deviated from the previous one and therefore contains all of the defects that the President found objectionable and which caused him to veto the previous legislation. In addition to the provisions which the President found totally unsatisfactory, the bill has the additional defect of discriminating between different mining companies.

Mr. MacGregor also conveyed similar views to Congressman Melcher by telegram (copy attached).

-- Committee Report --

Melcher was instructed to write the committee report which may require from two to four weeks. Minority views will also be written and filed. A copy of the report will be forwarded to you when it is available.

-- Rules Committee --

The next step in the legislative process will be a hearing before the House Rules Committee for a request for a rule providing for the consideration of H.R. 9725 on the House floor. Since this is essentially the same bill which has already been vetoed twice and would appear to be headed for the same fate a third time -- should it clear both Houses of Congress -- it seems unconscionable for the sponsors of the legislation to further encumber the already overcrowded calendar of the House. It should be borne in mind that no hearings on this or predecessor legislation have been held for nearly three years. AMC's request for hearings was denied by Chairman Haley on February 23. (See attached letter from Chairman Haley to J. Allen Overton, Jr.)

During that three-year period, at least 17 states have either enacted new surface mining laws or have up-dated existing laws. A total of 34 states have surface mining laws on the books.

-- ACTION REQUESTED --

1. Rules Committee Members

You are strongly urged to contact the members of the House Rules Committee, urging the rejection of a rule on H.R. 9725. A roster of the Rules Committee is attached for your convenience. Simply address your telegrams and communications

to the specific Congressmen -- U. S. House of Representatives, Washington, D. C. 20515. You may reach the Capitol operator on area code 202/224-3121, and then ask for the specific Congressman's office. There is evidence that some members of the Rules Committee are already concerned over the inordinate amount of time of the House being used up by this issue.

## 2. House Members of States Having Surface Mining Laws

Also attached is a roster of the House Members from the 34 states which have surface mining laws on the books. You are strongly urged to contact each of them (especially those in which you have operations or offices), asking the Congressman to use his good offices to urge the Rules Committee to reject the requested rule for H.R. 9725.

But, if the Rules Committee does grant a rule, urge each of the Members from the states having surface mining laws to vote to reject the rule on the House floor.

### -- Suggested Argument for Opposing Rule --

Many Members have been led to believe that there will be substantial financial aid granted to the states to administer, prepare reports, perform inspections, conduct land use planning and nearly endless hearings, and all the other onerous federal burdens placed upon the states by this legislation. The truth is that precious little money will ever be received by the states, but giant intrusions of the federal bureaucracy in state and local matters is certain. Section 705 of H.R. 9725 which authorizes grants to the states bursts that bubble. It authorizes grants not to exceed 80 percentum of the total cost incurred in the first year, reduced to 60 percentum of the total cost in the second year, then reduced to 40 percentum of the total cost for the third and fourth years. Please note that the grants to the states terminate at the end of the fourth year and henceforth the state will carry the entire cost. The Secretary's assistance from the fifth year on includes "technical assistance and training" and "assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each state for the purposes of evaluating the effectiveness of the state programs".

It is a replay of the same old ploy -- the federal government orders the banquet, but the states have to pick up the "tab". It is this kind of situation which has contributed to the financial difficulties of New York and other state governments. I would be the first to admit that there have been abuses in the past, but the state governments have proven themselves to be equal to the task of rectifying those abuses and are now providing for good regulation, resulting in good reclamation. Past sins are no longer a justification for "big brother" intrusion of the federal government in state and local affairs, particularly, when the federal government is not prepared to pay the bill. I believe this issue of federal surface mining legislation should be put to rest by either not granting H.R. 9725 a rule, or if the Rules Committee



reports a rule, then by defeating the rule. Let's let the industry get on with the business of supplying this Nation with its urgently needed energy under the known state rules which are tailored to meet the climate, terrain, chemical and geological differences between the states -- rules which are doing the job.

Enclosures - as stated



# AMERICAN MINING CONGRESS

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J. ALLEN OVERTON, JR., President

## STAFF NOTES ON SURFACE MINING MARKUP (H.R. 9725)

February 24, 1976

When a quorum was established -- 10:17 a.m. -- Chairman Haley (D-FL) announced that each member of the Committee would have 5 minutes for general debate on H.R. 9725, after which the legislation would be open for amendment on a title-by-title basis.

### -- General Debate --

Congressman Melcher (D-MT) described the strip mining legislation as the "most important federal land use measure" ever considered by Congress, and he said the Committee and Congress must again try to pass surface mining legislation even though it has been vetoed twice and the vetoes have not been overridden. Melcher said if another bill were vetoed, he hoped that enough votes could be rounded up to override this time.

Melcher said the bill was necessary because of deficiencies in the proposed regulations of the Interior Department. He said the regulations do not contain any "standards for protection of alluvial valley floors", and give the states authority to apply their laws on federal lands. Melcher said this delegation of authority was the sole function of the Congress. He said the Department would be better off if it cooperated with Congress in securing passage of legislation.

Congressman Skubitz (R-KS) pointed out that H.R. 9725 is essentially the same as the bill the President vetoed, H.R. 25. He said, "It seems to me to be a waste of time to spend all this time submitting amendments, particularly on the minority side, because they will be defeated. I will offer no amendments, and I know of none from the Administration. I do not want to waste time, but I want to give the House an opportunity to act. I believe I speak for the Administration and most of the Republicans on the Committee when I announce that as soon as general debate is over I shall move the bill be favorably reported to the House and let Congress work its will."

Congressman Seiberling (D-OH) asserted that since the beginning of the energy crisis, the coal companies have joined the oil companies in "endlessly chanting opposition to every form of energy legislation," but he said the profits of coal companies are very high so the argument that surface mining legislation will cost too much money is not a valid one.

Seiberling went on to say that until national surface mining controls are instituted which must be met by each state, the states which want to enact strong



legislation, such as Ohio, will be competing against states with weak legislation. Seiberling asserted that until the federal legislation aspect is resolved "there will not be the investment needed to increase coal production."

Congressman Eckhardt (D-TX) pointed out that several bills now before the Congress are interrelated to H.R. 9725 -- the coal leasing legislation (S. 391), the Clean Air Act (H.R. 10498), coal slurry pipeline (S. 1863), etc. He said that individual members may have different views about provisions in the legislation, but he said he felt, as Skubitz did, that the issues should be resolved on the House floor.

Congressman Taylor (D-NC) observed that "perhaps the final bill will be written in conference and not in this Committee." Skubitz said he agreed. Taylor continued, "We need to face the issue with an attitude of compromise," and he said the Committee was going to look a "little funny" if it continued to report legislation which is vetoed by the President and suggested that the Committee carefully consider all amendments.

-- Skubitz Motion to Report the Bill --

Skubitz then obtained recognition and offered a motion to report the bill to the House.

Chairman Haley said the motion was not in order because no amendments had been considered.

Melcher raised a point of order, but Steiger called for the previous question (a motion which would cut off all further debate). Steiger told Melcher that he thought there was "an understanding that this motion would be allowed to be made and would rise or fall on its own."

Melcher reasserted his point of order that the Skubitz motion was not in order since amendments have not been considered. Melcher said he had two amendments, and he said both Skubitz and Steiger were aware of his amendments.

Steiger said the "previous question" was a preferential motion, and the Melcher point of order did not lie. Eckhardt said it seemed to him that the previous question had to be called for with respect to pending business, and he said he was not aware that Skubitz had been recognized to make his motion.

Chairman Haley then sustained the Melcher point of order, having the effect of permitting further debate and allowing Melcher to offer his amendments.

Skubitz then asked unanimous consent that a final vote be taken on the bill and all amendments thereto at 11 a.m. today.

Seiberling objected. Skubitz then changed his unanimous consent request to a motion. (A motion requires only a majority vote of those present and voting.)

Melcher said he had "no particular objection to the time limit" but said he thought more time should be allowed so that members who wanted to do so could be present to record their vote. Skubitz said there was plenty of time.

The Skubitz motion passed by a voice vote.

-- Melcher Amendments --

Melcher then offered his amendments (Attachments 1 and 2). The first amendment is a technical amendment adding some language that had been omitted from page 34 by the printers. Attachment 1 was agreed to by unanimous consent.

The second amendment deals with alluvial valley floors, and Melcher said it was offered in an attempt to meet some of the objections raised by the Administration to the legislation. He said the amendment attempted to "grandfather in" existing mining operations on alluvial valley floors, and that it would not impose a total ban on mining in alluvial valley floors where farming operations are very small and mining would have only a "negligible" impact on the overall ranching operations.

Steiger said he was opposed to the amendment, and chided Melcher for suggesting that this amendment was supported by the Administration. Melcher said that was not what he had said; he had said that the amendment was drafted to take care of some of the Administration objections.

Steiger responded by saying that the Melcher amendment did not resolve the Administration's problems with this section. Steiger went on to say, "I am amazed that the environmental people have signed off on this amendment." He went on to say that the amendment will only compound the objections from the Administration.

Seiberling said the Administration had made such a point of this provision and its impact on mining operations, that it was felt this amendment would alleviate some of those objections by "grandfathering" existing mining operations.

Then Congressman Clausen (R-CA) wanted to know how many mines would be affected by this Melcher amendment. Melcher said the Decker, Westmoreland and Belle Ayr mines would be affected. Clausen wanted to know if any mines in Utah or Colorado would be affected, but Melcher said he did not know.

Eckhardt raised a technical point and asked unanimous consent that the proviso in the Melcher amendment be repositioned to clearly indicate that it applies to clauses (A) and (B). Consent was granted.

The Melcher amendment on alluvial valley floors was agreed to by a voice vote.

-- Steiger Motion to Report H.R. 9725 --

Steiger then offered a motion to favorably report H.R. 9725, as amended, to the House. He also asked unanimous consent that absent members would have



15 minutes to appear and record their votes. Consent was granted.

Congressman Meeds (D-WA) raised a point of order that a quorum was not present. The vote was taken, and H.R. 9725 was ordered reported by a vote of 28-11 (Attachment 3), so the Meeds point of order did not lie.

-- Melcher to Write Report on H.R. 9725 --

Haley announced that H.R. 9725, as amended, had been ordered reported. He directed that Melcher would write the report on the bill. A call to the Committee this afternoon discloses that the report may not be filed for three to four weeks. However, since H.R. 9725 is nearly identical to H.R. 25, the report on H.R. 25 could be used as a format and that time estimate could be shortened.

Melcher asked unanimous consent that he be permitted to report a clean bill. Congressman Bauman (R-MD) objected, saying "the taxpayers have spent enough on printing costs of this bill, and there is no need for a clean bill." Haley said he agreed with Bauman, so consent was not granted.

The Committee then proceeded with other business.

Attachment 1  
Agreed to by unanimous  
consent, Feb. 24, 1976

D. Printing Error

Incomplete paragraph

... distributed as another  
membership service by the  
American Mining Congress

Sec. 405(a)(2) Page 34 line 11 Add the following after "which":

"are available for acquisition under this section  
and based upon those findings he shall select lands for  
purchase according to the priorities established in section  
402. Title to all lands or interests therein acquired  
shall be taken in the name of the United States. The  
price paid for land under this section shall take into  
account the unrestored condition of the land. Prior  
to any individual acquisition under this section, the  
Secretary shall specifically determine the cost of  
such acquisition and reclamation and the benefits  
to the public to be gained therefrom."





Item 26

Substitute

Sec. 510(b)(5)

Page 74

Attachment 2  
Agreed to by voice  
vote Feb. 24, 1976

... distributed as another  
membership service by the  
American Mining Congress

"(5) the proposed surface coal mining operations, if  
located west of the one hundredth meridian west longitude, would --

(A) not interrupt, discontinue, or prevent farming on  
alluvial valley floors that are irrigated or naturally subirrigated,  
but, excluding undeveloped range lands which are not significant  
to farming on said alluvial valley floors and those lands that  
the regulatory authority finds that if the farming that will be  
interrupted, discontinued, or prevented is of such small acreage  
as to be of negligible impact on the farm's agricultural production,  
or,

(B) not adversely affect the quantity or quality of water in  
surface or underground water systems that supply these valley  
floors in (A) of subsection (b)(5); and Provided, That this para-  
graph (5) shall not affect those surface coal mining operations which  
in the year preceding the enactment of this Act 1) produced coal  
in commercial quantities, and 2) were located within or adjacent  
to alluvial valley floors or had obtained specific permit approval  
by the State regulatory authority to conduct surface coal mining  
operation within said alluvial valley floors.



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**COMMITTEE ON INTERIOR AND INSULAR AFFAIRS**  
**HOUSE OF REPRESENTATIVES**  
**94TH CONGRESS**

☒ Full Committee
Date Feb. 24, 1976
☐ Subcommittee \_\_\_\_\_

Roll No. \_\_\_\_\_

Bill No. H. R. 9725 Short Title Surface MiningAmendment or matter voted on: Steiger motion to report bill, as amended

	YEAS	NAYS	PRESENT		YEAS	NAYS	PRESENT
Mr. Bauman		X		Mr. Risenhoover		X (proxy)	
Mr. Benitez				Mr. Roncalio	X (proxy)		
Mr. Bingham	X			Mr. Runnels		X	
Mr. Burton	X			Mr. Ruppe	X		
Mr. Byron				Mr. Santini	X (proxy)		
Mr. Carr	X (proxy)			Mr. Sebelius		X	
Mr. Clausen	X			Mr. Seiberling	X		
Mr. de Lugo	X			Mr. Skubitz		X	
Mr. Eckhardt	X			Mrs. Smith		X	
Mr. Howe	X			Mr. Steelman	X (proxy)		
Mr. Johnson of Calif.		X		Mr. Steiger		X	
Mr. Johnson of Colo.	X			Mr. Stephens		X (proxy)	
Mr. Kastenmeier	X			Mr. Symms		X	
Mr. Kazen		X (proxy)		Mr. Taylor	X		
Mrs. Pettis	X			Mr. Tsongas	X		
Mr. Ketchum	X			Mr. Udall	X (proxy)		
Mr. Lagomarsino	X			Mr. Vigorito	X		
Mr. Lujan	X			Mr. Weaver	X		
Mr. Meeds	X			Mr. Won Pat	X		
Mr. Melcher	X			Mr. Young			
Mr. Miller	X			Mr. Haley, Chairman	X		
Mrs. Mink	X (proxy)			Totals	28	11	
Mr. Patman							

# WESTERN UNION

American Mining Congress Chairman Ian MacGregor wired Congressman

John Melcher on February 24, 1976 as follows:

QUOTE

PERSUANT TO YOUR TELEPHONE CALL THIS AFTERNOON WE HAVE REVIEWED THE INFORMATION AVAILABLE CONCERNING HR 9725 REPORTED BY THE HOUSE INTERIOR COMMITTEE THIS MORNING. I AM DISTRESSED TO FIND THAT NONE OF THE DEFICIENCIES CITED BY THE PRESIDENT WHEN HE VETOED HR 25 HAVE BEEN CORRECTED. WHILE THE GRANDFATHER EXCEPTION TO THE ALLUVIAL VALLEY FLOOR PROHIBITION WOULD APPEAR TO HELP EXISTING MINES, THE BASIC PROHIBITION COULD STILL UNNECESSARILY FRUSTRATE THE EXPANSION OF WESTERN COAL PRODUCTION CRITICAL TO THE NATION'S ENERGY INDEPENDENCE OBJECTIVES. MOREOVER, THIS EXCEPTION ADDS THE DEFECT OF DISCRIMINATION BETWEEN DIFFERENT MINING COMPANIES IN SIMILAR MINING CONDITIONS. ACCORDINGLY, I REGRET THAT I CANNOT SUPPORT HR 9725 AS NOW DRAFTED.

IAN K. MACGREGOR, CHAIRMAN

UNQUOTE



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COMMITTEE ON INTERIOR AND INSULAR AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

February 23, 1976

CHARLES CONKLIN  
STAFF DIRECTOR  
LEE MC ELVAIN  
GENERAL COUNSEL  
MICHAEL C. MARDEN  
MINORITY COUNSEL

REC'D A. M. C.  
FEB 24 1976

Mr. J. Allen Overton, Jr., President  
American Mining Congress  
1100 Ring Building  
Washington, D. C. 20036

Dear Mr. Overton:

In response to your letter of February 2, I can certainly understand your interest in the coal surface mining legislation which is presently before this Committee.

In the belief that extended hearings on this proposal would further delay and probably prevent the Congress from considering this legislation before adjournment, and because the Committee has conducted extensive hearings in previous years, it seems unlikely that the Members will open this issue to additional hearings, unlimited discussion, and debate.

While I recognize that you would prefer a more affirmative response to your request, a motion approved by the Committee providing for markup sessions only will control our procedure unless there is a modification later on.

With kindest regards, I am

Sincerely yours,

*James A. Haley*  
JAMES A. HALEY  
Chairman



House Delegations of States Which Have Surface Mining Laws

Alabama

Jack Edwards (R-1)  
William L. Dickinson (R-2)  
Bill Nichols (D-3)  
Tom Bevill (D-4)

Robert E. Jones (D-5)  
John Buchanan (R-6)  
Walter Flowers (D-7)

Arkansas

Bill Alexander (D-1)  
Wilbur D. Mills (D-2)

John P. Hammerschmidt (R-3)  
Ray Thornton (D-4)

California

Harold T. Johnson (D-1)  
Don H. Clausen (R-2)  
John E. Moss (D-3)  
Robert L. Leggett (D-4)  
John Burton (D-5)  
Phillip Burton (D-6)  
George Miller (D-7)  
Ronald V. Dellums (D-8)  
Fortney H. (Pete) Stark (D-9)  
Don Edwards (D-10)  
Leo J. Ryan (D-11)  
Paul N. (Pete) McCloskey, Jr. (R-12)  
Norman Y. Mineta (D-13)  
John J. McFall (D-14)  
B. F. Sisk (D-15)  
Burt L. Talcott (R-16)  
John Krebs (D-17)  
William M. Ketchum (R-18)  
Robert J. Lagomarsino (R-19)  
Barry M. Goldwater, Jr. (R-20)  
James C. Corman (D-21)  
Carlos J. Moorhead (R-22)

Thomas M. Rees (D-23)  
Henry A. Waxman (D-24)  
Edward R. Roybal (D-25)  
John Rousselot (R-26)  
Alphonzo Bell (R-27)  
Yvonne B. Burke (D-28)  
Augustus F. Hawkins (D-29)  
George E. Danielson (D-30)  
Charles H. Wilson (D-31)  
Glenn M. Anderson (D-32)  
Del Clawson (R-33)  
Mark W. Hannaford (D-34)  
Jim Lloyd (D-35)  
George E. Brown, Jr. (D-36)  
Shirley N. Pettis (R-37)  
Jerry M. Patterson (D-38)  
Charles E. Wiggins (R-39)  
Andrew Hinshaw (R-40)  
Bob Wilson (R-41)  
Lionel Van Deerlin (D-42)  
Clair W. Burgener (R-43)

Colorado

Patricia Schroeder (D-1)  
Timothy E. Wirth (D-2)  
Frank E. Evans (D-3)

James P. (Jim) Johnson (R-4)  
William L. Armstrong (R-5)

Florida

Robert L. F. Sikes (D-1)  
Don Fuqua (D-2)  
Charles E. Bennett (D-3)  
Bill Chappell, Jr. (D-4)  
Richard Kelly (R-5)  
C. W. Bill Young (R-6)  
Sam M. Gibbons (D-7)  
James A. Haley (D-8)

Louis Frey, Jr. (R-9)  
L. A. (Skip) Bafalis (R-10)  
Paul G. Rogers (D-11)  
J. Herbert Burke (R-12)  
William Lehman (D-13)  
Claude D. Pepper (D-14)  
Dante B. Fascell (D-15)



## Georgia

Bo Ginn (D-1)  
Dawson Mathis (D-2)  
Jack Brinkley (D-3)  
Elliott H. Levitas (D-4)  
Andrew Young (D-5)

John J. Flynt, Jr. (D-6)  
Larry McDonald (D-7)  
W. S. (Bill) Stuckey, Jr. (D-8)  
Phil M. Landrum (D-9)  
Robert G. Stephens, Jr. (D-10)

## Illinois

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Henry J. Hyde (R-6)  
Cardiss Collins (D-7)  
Dan Rostenkowski (D-8)  
Sidney R. Yates (D-9)  
Abner J. Mikva (D-10)  
Frank Annunzio (D-11)  
Philip M. Crane (R-12)

Robert McClory (R-13)  
John N. Erlenborn (R-14)  
Tim L. Hall (D-15)  
John B. Anderson (R-16)  
George M. O'Brien (R-17)  
Robert H. Michel (R-18)  
Thomas F. Railsback (R-19)  
Paul Findley (R-20)  
Edward R. Madigan (R-21)  
George E. Shipley (D-22)  
Melvin Price (D-23)  
Paul Simon (D-24)

## Indiana

Ray J. Madden (D-1)  
Floyd J. Fithian (D-2)  
John Brademas (D-3)  
J. Edward Roush (D-4)  
Elwood Hillis (R-5)

David W. Evans (D-6)  
John T. Myers (R-7)  
Philip H. Hayes (D-8)  
Lee H. Hamilton (D-9)  
Philip R. Sharp (D-10)  
Andrew Jacobs, Jr. (D-11)

## Iowa

Edward Mezvinsky (D-1)  
Michael T. Blouin (D-2)  
Charles E. Grassley (R-3)

Neal Smith (D-4)  
Tom Harkin (D-5)  
Berkley Bedell (D-6)

## Kansas

Keith G. Sebelius (R-1)  
Martha Keys (D-2)  
Larry Winn, Jr. (R-3)

Garner E. Shriver (R-4)  
Joe Skubitz (R-5)

## Kentucky

Carroll Hubbard, Jr. (D-1)  
William H. Natcher (D-2)  
Romano L. Mazzoli (D-3)  
M. G. (Gene) Snyder (R-4)

Tim Lee Carter (R-5)  
John Breckinridge (D-6)  
Carl D. Perkins (D-7)

## Maine

David F. Emery (R-1)

William S. Cohen (R-2)

## Maryland

Robert E. Bauman (R-1)  
Clarence D. Long (D-2)  
Paul S. Sarbanes (D-3)  
Marjorie S. Holt (R-4)

Gladys N. Spellman (D-5)  
Goodloe E. Byron (D-6)  
Parren J. Mitchell (D-7)  
Gilbert Gude (R-8)

Michigan

John Conyers, Jr. (D-1)  
Marvin L. Esch (R-2)  
Garry E. Brown (R-3)  
Edward Hutchinson (R-4)  
Richard F. Vander Veen (D-5)  
Bob Carr (D-6)  
Donald W. Riegle, Jr. (D-7)  
Bob Traxler (D-8)  
Guy Vander Jagt (R-9)  
Elford A. Cederberg (R-10)

Philip E. Ruppe (R-11)  
James G. O'Hara (D-12)  
Charles C. Diggs, Jr. (D-13)  
Lucien N. Nedzi (D-14)  
William D. Ford (D-15)  
John D. Dingell (D-16)  
William M. Brodhead (D-17)  
James J. Blanchard (D-18)  
William S. Broomfield (R-19)

Minnesota

Albert H. Quie (R-1)  
Tom Hagedorn (R-2)  
Bill Frenzel (R-3)  
Joseph E. Karth (D-4)

Donald M. Fraser (D-5)  
Richard Nolan (D-6)  
Bob Bergland (D-7)  
James L. Oberstar (D-8)

Missouri

William (Bill) Clay (D-1)  
James W. Symington (D-2)  
Leonor K. Sullivan (D-3)  
Wm. J. Randall (D-4)  
Richard Bolling (D-5)

Jerry Litton (D-6)  
Gene Taylor (R-7)  
Richard H. Ichord (D-8)  
William L. Hungate (D-9)  
Bill D. Burlison (D-10)

Montana

Max Baucus (D-1)

John Melcher (D-2)

New Mexico

Manuel Lujan, Jr. (R-1)

Harold Runnels (D-2)

New York

Otis G. Pike (D-1)  
Thomas J. Downey (D-2)  
Jerome A. Ambro (D-3)  
Norman F. Lent (R-4)  
John W. Wydler (R-5)  
Lester L. Wolff (D-6)  
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Benjamin S. Rosenthal (D-8)  
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Matthew F. McHugh (D-27)  
Samuel S. Stratton (D-28)  
Edward W. Pattison (D-29)  
Robert C. McEwen (R-30)  
Donald J. Mitchell (R-31)  
James M. Hanley (D-32)  
William F. Walsh (R-33)  
Frank Horton (R-34)  
Barber B. Conable, Jr. (R-35)  
John J. LaFalce (D-36)  
Henry J. Nowak (D-37)  
Jack Kemp (R-38)  
vacant

North Carolina

Walter B. Jones (D-1)  
L. H. Fountain (D-2)  
David N. Henderson (D-3)  
Ike F. Andrews (D-4)  
Stephen L. Neal (D-5)  
Richardson Preyer (D-6)

Charles Rose (D-7)  
W. G. (Bill) Hefner (D-8)  
James G. Martin (R-9)  
James T. Broyhill (R-10)  
Roy A. Taylor (D-11)

North Dakota

Mark Andrews (R-AL)

Ohio

Willis D. Gradison, Jr. (R-1)  
Donald D. Clancy (R-2)  
Charles W. Whalen, Jr. (R-3)  
Tennyson Guyer (R-4)  
Delbert H. Latta (R-5)  
William H. Harsha (R-6)  
Clarence J. Brown (R-7)  
Thomas N. Kindness (R-8)  
Thomas L. Ashley (D-9)  
Clarence E. Miller (R-10)  
J. William Stanton (R-11)  
Samuel L. Devine (R-12)

Charles A. Mosher (R-13)  
John F. Seiberling (D-14)  
Chalmers P. Wylie (R-15)  
Ralph S. Regula (R-16)  
John M. Ashbrook (R-17)  
Wayne L. Hays (D-18)  
Charles J. Carney (D-19)  
James V. Stanton (D-20)  
Louis Stokes (D-21)  
Charles A. Vanik (D-22)  
Ronald M. Mottl (D-23)

Oklahoma

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Ted Risenhoover (D-2)  
Carl Albert (D-3)

Tom Steed (D-4)  
John Jarman (R-5)  
Glenn English (D-6)

Oregon

Les AuCoin (D-1)  
Al Ullman (D-2)

Robert Duncan (D-3)  
James Weaver (D-4)

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Robert N. C. Nix (D-2)  
William J. Green (D-3)  
Joshua Eilberg (D-4)  
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Gus Yatron (D-6)  
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E. G. (Bud) Shuster (R-9)  
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Lawrence Coughlin (R-13)

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Fred B. Rooney (D-15)  
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John H. Dent (D-21)  
Thomas E. Morgan (D-22)  
Albert W. Johnson (R-23)  
Joseph P. Vigorito (D-24)  
Gary A. Myers (R-25)



South Carolina

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Floyd Spence (R-2)  
Butler Derrick (D-3)

James R. Mann (D-4)  
Kenneth L. Holland (D-5)  
John W. Jenrette, Jr. (D-6)

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Larry Pressler (R-1)

James Abdnor (R-2)

Tennessee

James H. Quillen (R-1)  
John J. Duncan (R-2)  
Marilyn Lloyd (D-3)  
Joe L. Evins (D-4)

Clifford R. Allen (D-5)  
Robin L. Beard (R-6)  
Ed Jones (D-7)  
Harold E. Ford (D-8)

Texas

Wright Patman (D-1)  
Charles Wilson (D-2)  
James M. Collins (R-3)  
Ray Roberts (D-4)  
Alan Steelman (R-5)  
Olin E. Teague (D-6)  
Bill Archer (R-7)  
Bob Eckhardt (D-8)  
Jack Brooks (D-9)  
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W. R. Poage (D-11)  
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Jack Hightower (D-13)  
John Young (D-14)  
Kika de la Garza (D-15)  
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Omar Burleson (D-17)  
Barbara Jordan (D-18)  
George H. Mahon (D-19)  
Henry B. Gonzales (D-20)  
Robert (Bob) Krueger (D-21)  
vacant  
Abraham Kazen, Jr. (D-23)  
Dale Milford (D-24)

Utah

K. Gunn McKay (D-1)

Allan T. Howe (D-2)

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G. William Whitehurst (R-2)  
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W. C. (Dan) Daniel (D-5)

M. Caldwell Butler (R-6)  
J. Kenneth Robinson (R-7)  
Herbert E. Harris, 2nd (D-8)  
William C. Wampler (R-9)  
Joseph L. Fisher (D-10)

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Joel Pritchard (R-1)  
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Don Bonker (D-3)  
Mike McCormack (D-4)

Thomas S. Foley (D-5)  
Floyd V. Hicks (D-6)  
Brock Adams (D-7)

West Virginia

Robert H. Mollohan (D-1)  
Harley O. Staggers (D-2)

John Slack (D-3)  
Ken Hechler (D-4)

Wyoming

Teno Roncalio (D-AL)





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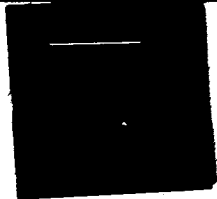
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Delbert L. Latta (R-OH)  
Del Clawson (R-CA)  
Trent Lott (R-MS)

Correspondence may be addressed to:

The Honorable (name of member)  
U. S. House of Representatives  
Washington, D. C. 20515



THE WHITE HOUSE  
WASHINGTON



To

11



THE WHITE HOUSE

WASHINGTON

September 13, 1976

MEMORANDUM FOR:

JACK MARSH

THRU:

MAX FRIEDERSDORF

FROM:

CHARLES LEPPERT, JR. *CLJ*

SUBJECT:

Strip Mining

Attached is a comparison of H.R. 13950, the strip mining bill reported by the House Interior Committee, and the bill previously reported, passed, and vetoed by the President. This comparison terms H.R. 13950 as "a bill of identical substance".

This comparison is a "boot-legged" copy and is being closely held for distribution to the members of the House Rules Committee immediately prior to the Rules Committee consideration of the request for a rule on the strip mining bill.





## A BILL OF IDENTICAL SUBSTANCE

H. R. 13950 is identical in substance to H. R. 9725 which was denied a rule because it was identical in substance to the vetoed H. R. 25. Of the major issues advanced by the Administration and left unresolved by the Conference Committee on H. R. 25, all remain unchanged in H. R. 13950. These major issues have not been resolved by the minor and insignificant changes found in H. R. 13950. The full text of each of the two bills compared below is over 175 pages long. Only the major issues have been identified in this side-by-side demonstration. The remaining sections of the bills -- more than two-thirds of the texts -- are word-for-word identical.

Union Calendar No. 453

94TH CONGRESS  
2D SESSION

# H. R. 9725

[Report No. 94-896]

IN THE HOUSE OF REPRESENTATIVES

## A BILL

To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

Union Calendar No. 746

94TH CONGRESS  
2D SESSION

# H. R. 13950

[Report No. 94-1445]

IN THE HOUSE OF REPRESENTATIVES

## A BILL

To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

<u>MAJOR ISSUES</u>	<u>MODIFICATION SINCE H.R. 9725 WAS DENIED RULE</u>	<u>PAGE</u>
1. OFFICE OF SURFACE MINING, JURISDICTION	IDENTICAL SUBSTANCE	2
2. MESA INSPECTORS	IDENTICAL SUBSTANCE	6
3. CONFLICT OF INTEREST	IDENTICAL SUBSTANCE	7
4. MATCHING GRANTS *	IDENTICAL SUBSTANCE	8
5. RECLAMATION FEE	IDENTICAL SUBSTANCE	25
6. INTERIOR TIMING	IDENTICAL SUBSTANCE	26
7. FEDERAL PREEMPTION DURING INTERIM	IDENTICAL SUBSTANCE	26
8. DELAYS, DESIGNATIONS AS UNSUITABLE	DELETION OF A WORD	27
9. ALLUVIAL VALLEY FLOORS	IDENTICAL SUBSTANCE	29
10. SURFACE OWNER CONSENT, EXPLORATION	IDENTICAL SUBSTANCE	30
11. STREAM SILTATION	IDENTICAL SUBSTANCE	31
12. REPLACEMENT OF WATER SUPPLY	IDENTICAL SUBSTANCE	33
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## 1. MAJOR ISSUE: OFFICE OF SURFACE MINING, JURISDICTION

H.R. 9725

TITLE II—OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT

## CREATION OF THE OFFICE

SEC. 201. (a) There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall report directly to the Secretary and who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code, and such other employees as may be required. The Director shall have the responsibilities provided under subsection (c) of this section and those duties and responsibilities relating to the functions of the office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer the provisions of this Act. No legal authority, program, or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources or regulating the health and safety of miners under provisions of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), shall be transferred to the Office.

H.R. 13950

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(c) The Secretary, acting through the Office, shall—

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

(2) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(3) administer the State grant-in-aid program for the development of State programs for surface coal mining and reclamation operations provided for in title V of this Act;

(4) administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title IV of this Act;

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(2) publish and promulgate such rules and regulations as may be necessary to carry out the purposes and provisions of this Act;

(3) administer the State grant-in-aid program for the development of State programs for surface coal mining and reclamation operations provided for in title V of this Act;

(4) administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title IV of this Act;



(5) administer the surface mining and reclamation research and demonstration project authority provided for in this Act;

(6) consult with other agencies of the Federal Government having expertise in the control and reclamation of surface mining operations and assist States, local governments, and other eligible agencies in the coordination of such programs;

(7) maintain a continuing study of surface mining and reclamation operations in the United States;

(8) develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and to Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(9) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of the Act and, at the same time, reflect local requirements and local environmental and agricultural conditions;

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining to section 522;

(5) administer the surface mining and reclamation research and demonstration project authority provided for in this Act;

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(8) develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and to Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

(9) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of the Act and, at the same time, reflect local requirements and local environmental and agricultural conditions;

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining to section 522;

(11) monitor all Federal and State research programs dealing with coal extraction and use and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating adverse environmental and social impacts; and

(12) perform such other duties as may be provided by law and relate to the purposes of this Act.

(e) The Office shall be considered an independent Federal regulatory agency for the purposes of sections 3502 and 3512 of title 44 of the United States Code.

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Sec. 201

(d) The Director shall not use either permanently or temporarily any person charged with responsibility of inspecting coal mines under the Federal Coal Mine Health and Safety Act of 1969, unless he finds and publishes such finding in the Federal Register, that such activities would not interfere with such inspections under the 1969 Act.

IDENTICAL SUBSTANCE

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IDENTICAL SUBSTANCE

3. MAJOR ISSUE: CONFLICT OF INTEREST

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(f) No employee of the Office or any other Federal employee performing any function or duty under this Act shall have a direct or indirect financial interest in underground or surface coal mining operations. Whoever knowingly violates the provisions of the above sentence shall, upon conviction, be punished by a fine of not more than \$2,500, or by imprisonment for not more than one year, or both. The Director shall within sixty days after enactment of this Act publish regulations, in accordance with section 553 of title 5, United States Code, to establish the methods by which the provisions of this subsection will be monitored and enforced, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning their financial interests which may be affected by this subsection, and (2) report to the Congress on March 1 of each calendar year on the actions taken and not taken during the preceding calendar year under this subsection.

7

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#### TITLE IV—ABANDONED MINE RECLAMATION

##### ABANDONED MINE RECLAMATION FUND

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior.

(b) The fund shall consist of amounts deposited in the fund, from time to time, derived from—

(1) the sale, lease, or rental of land reclaimed pursuant to this title;

(2) any user charge imposed on or for land reclaimed pursuant to this title after expenditures for maintenance have been deducted; and

(3) the reclamation fees levied under subsection (d) of this section.

(c) Amounts covered into the fund shall be available for the acquisition and reclamation of land under section 405, administration of the fund and enforcement and collection of the fee as specified in subsection (d), acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 406, and for use under section 404, by the Secretary of Agriculture, of up to one-fifth of the money deposited in

H.R. 13950

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\*See page 58.

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the fund annually and transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes. Such amounts shall be available for such purposes only when appropriated therefor; and such appropriations may be made without fiscal year limitations.

(e) The geographic allocation of expenditures from the fund shall reflect both the area from which the revenue was derived as well as the program needs for the funds. Fifty per centum of the funds collected annually in any State or Indian reservation shall be expended in that State or Indian reservation by the Secretary to accomplish the purposes of this title after receiving and considering the recommendations of the Governor of that State or the head of the governing body of that tribe having jurisdiction over that reservation, as the case may be: *Provided, however,* That if such funds have not been expended within three years after being paid into the fund, they shall be available for expenditure in any area. The balance of funds collected on an annual basis may be expended in any area at the discretion of the Secretary in order to meet the purposes of this title.

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## OBJECTIVES OF FUND

SEC. 402. The primary objective for the obligation of funds is the reclamation of areas affected by previous mining; but other objectives shall reflect the following priorities in the order stated:

- (a) the protection of health or safety of the public;
- (b) protection of the environment from continued degradation and the conversation of land and water resources;
- (c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation and conservation facilities and their use;
- (d) the improvement of lands and water to a suitable condition useful in the economic and social development of the area affected; and
- (e) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

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## ELIGIBLE LANDS

SEC. 403. The only lands eligible for reclamation expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act, and for which there is no continuing reclamation responsibility under State or other Federal laws.

## RECLAMATION OF RURAL LANDS

SEC. 404. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements, of not more than ten years with landowners (including owners of water rights), residents and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, and agricultural productivity of such lands. Such agreements shall be made by the Secretary

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with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

(b) The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, residents, or tenant have been adversely affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

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(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, including owner of water rights, resident, or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for carrying out the land use and conservation treatment set forth in the agreement. Grants made under this section, depending on the income-producing potential of the land after reclaiming, shall provide up to 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred and twenty acres of land occupied by such owner including water rights owners, resident, or tenant, or on not more than one hundred and twenty acres of land which has been purchased jointly by such landowners including water rights owners, residents, or tenants under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where he determines that (1) the main benefits to be derived from the project are related to improving off-site water quality, off-site esthetic values, or other off-site benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(d) In return for such agreement by the landowner, including owner of water rights, resident, or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for carrying out the land use and conservation treatment set forth in the agreement. Grants made under this section, depending on the income-producing potential of the land after reclaiming, shall provide up to 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred and twenty acres of land occupied by such owner including water rights owners, resident, or tenant, or on not more than one hundred and twenty acres of land which has been purchased jointly by such landowners including water rights owners, residents, or tenants under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where he determines that (1) the main benefits to be derived from the project are related to improving off-site water quality, off-site esthetic values, or other off-site benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

IDENTICAL SUBSTANCE  
(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

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(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service.

(i) Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 401 (c).

ACQUISITION AND RECLAMATION OF ABANDONED AND  
UNRECLAIMED MINED LANDS

SEC. 405. (a) (1) The Congress declares that the reclamation and, if necessary, acquisition of any interest in land or mineral rights in order to eliminate hazards to the environment or to the health or safety of the public from mined lands, or to construct, operate, or manage reclamation facilities and projects constitutes for the purposes of this title reclamation and, if necessary, acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so reclaimed or acquired as an open space or for recreation, or to resell, if acquired, the land following completion of the reclamation facility or project.

(2) The Secretary may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining and has not been reclaimed to its approximate original condition. Prior to making any acquisition of land under this section, the Secretary shall make a thorough study with respect to those tracts of land which are

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*available for acquisition under this section and based upon those findings he shall select lands for purchase according to the priorities established in section 402. Title to all lands or interests therein acquired shall be taken in the name of the United States. The price paid for land under this section shall take into account the unrestored condition of the land. Prior to any individual acquisition under this section, the Secretary shall specifically determine the cost of such acquisition and reclamation and the benefits to the public to be gained therefrom.*

(3) Within six months after the completion of any work to abate pollution caused by past coal mining operations herein contemplated on any privately owned surface property, the Secretary, or the appropriate regulatory authority pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the appropriate county courthouse office for the filing of documents in the county in which the land lies if the moneys so expended shall result in a significant increase in the property value. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land. The lien shall not exceed an amount determined by the appropriate Board, appointed as

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provided in the eminent domain code or similar such legislation, to be the increase in the market value of the land as a result of the corrections of the condition immediately the Secretary, or appropriate regulatory authority, has completed work, and the lien shall extend only to that portion of the premises directly involved in the work of the Secretary pursuant to this Act.

(4) If the Secretary, or the appropriate regulatory authority pursuant to an approved State program, makes a finding of fact that (1) a mine fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations is at a stage where, in the public interest, immediate action should be taken; and (2) the owner or owners of the property upon which entry must be made to combat the mine fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations, are not known, are not readily available, or will not give permission for the Secretary, political subdivisions of the State or municipalities, their agents, employees, or contractors to enter upon such premises, then, upon giving notice by mail to the owner or owners, if known, or if not known, by posting notice upon the premises and advertising in a newspaper of general circulation in the area in which the land lies, the Secretary, political subdivision of the State or municipalities, their agents, employees, or contractors shall have a right to enter upon the premises and any other land in order to have access to the premises to combat the mine

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fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations and do all things necessary and expedient to do so. Such entry shall not be construed as an act of condemnation of property or of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises entered upon shall be chargeable against such lands and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: *Provided, however,* That this provision is not intended to create new rights of action or eliminate existing immunities.

(5) States are encouraged as part of their approved State programs, to reclaim abandoned and unreclaimed mined lands within their boundaries and, if necessary, to acquire or to transfer such lands to the Secretary or the appropriate State regulatory authority under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding

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the provisions of paragraph (1) of this subsection, reclaimed land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and reclamation of the land, as negotiated by the Secretary, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Secretary in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(6) The Secretary shall prepare specifications for the reclamation of lands to be reclaimed or acquired under this section. In preparing these specifications the Secretary shall utilize the specialized knowledge or experience of any Federal or State department or agency which can assist him in the development or implementation of the reclamation program required under this title.

(7) In selecting lands to be acquired pursuant to this section and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Secretary shall give priority to lands in their unreclaimed state which will meet the objectives as stated in section 402 above when reclaimed. For those lands which are reclaimed for public recreational use, the revenue derived from such lands shall be used first to assure proper maintenance of such funds and facilities thereon and any remaining moneys

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shall be deposited in the funds.

(8) Where land reclaimed pursuant to this section is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary may sell such land by public sale under a system of competitive bidding, at not less than fair market value and under such other regulations as he may promulgate to insure that such lands are put to proper use, as determined by the Secretary.

If any such land sold is not put to the use specified by the Secretary in the terms of the sales agreement, then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(9) The Secretary shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once reclaimed.

(10) The Secretary shall utilize all available data and information on reclamation needs and measures, including the data and information developed by the Corps of Engineers in conducting the National Strip Mine Study authorized by section 233 of the Flood Control Act of 1970. In connection therewith the Secretary may call on the Secretary of the Army, acting through the Chief of Engineers, to assist him

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(8) Where land reclaimed pursuant to this section is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary may sell such land by public sale under a system of competitive bidding, at not less than fair market value and under such other regulations as he may promulgate to insure that such lands are put to proper use, as determined by the Secretary. If any such land sold is not put to the use specified by the Secretary in the terms of the sales agreement, then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

(9) The Secretary shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of the lands once reclaimed.

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in conducting, operating, or managing reclamation facilities and projects, including demonstration facilities and projects conducted by the Secretary pursuant to this section.

(b) (1) The Secretary is authorized to use money in this fund to acquire, reclaim, develop, and transfer land to any State, or any department, agency, or instrumentality of a State or of a political subdivision thereof, or to any person, firm, association, or corporation if he determines that such is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons employed in mines or work incidental thereto, persons disabled as the result of such employment, persons displaced by governmental action, or persons dislocated as the result of natural disasters or catastrophic failure from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: *Provided*, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such person, firm, association, or corporation. Land development may include the construction of public facilities or other improvements including reasonable site work and offsite improvements such as sewer and water extensions which the Secretary determines necessary or appropriate to the economic feasibility of a project. No part of the funds provided under this title may be used to pay the actual construction costs of housing.

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(2) The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

(3) The Secretary may provide, or contract with public and private organizations to provide information, advice, and technical assistance, including demonstrations, in furtherance of this subsection.

(4) The Secretary may make expenditures to carry out the purpose of this subsection, without regard to the provisions of section 403, in any area experiencing a rapid development of its coal resources which the Secretary has determined does not have essential public facilities.

#### FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the chairman of any tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines

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could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

(b) Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be expended in the respective States or Indian reservations under the provisions of section 401 (e).

(c) The Secretary may make expenditures and carry out the purposes of this section without regard to provisions of section 403 in such States or Indian reservations where requests are made by the Governor or tribal chairman and only after all reclamation with respect to abandoned coal lands or coal development impacts have been met, except for those reclamation projects relating to the protection of the public health or safety.

(d) In those instances where mine waste piles are being reworked for coal conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

(e) The Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

#### FUND REPORT

SEC. 407. Not later than January 1, 1976, 1977, and annually thereafter, the Secretary shall report to the Con-

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could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

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#### FUND REPORT

SEC. 407. Not later than January 1, 1977, and annually thereafter, the Secretary shall report to the Con-

gress on operations under the fund together with his recommendations as to future uses of the fund.

## TRANSFER OF FUNDS

SEC. 408. The Secretary of the Interior may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this title.

IDENTICAL SUBSTANCE

gress on operations under the fund together with his recommendations as to future uses of the fund.

## TRANSFER OF FUNDS

SEC. 408. The Secretary of the Interior may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this title.

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(d) All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the time, as determined by the Secretary, whichever is less except that this reclamation fee for lignite coal shall be at a rate of 5 per centum of the value of the coal at the mine, or 35 cents per ton, whichever is less. Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after January 1, 1977, and ending fifteen years after the date of enactment of this Act unless extended by an Act of Congress.

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Sec. 401(d) All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the time, as determined by the Secretary, whichever is less except that this reclamation fee for lignite coal shall be at a rate of 5 per centum of the value of the coal at the mine, or 35 cents per ton, whichever is less. Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after January 1, 1977, and ending fifteen years after the date of enactment of this Act unless extended by an Act of Congress.

6. MAJOR ISSUE: INTERIM TIMING  
7. MAJOR ISSUE: FEDERAL PREEMPTION DURING INTERIM

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INITIAL REGULATORY PROCEDURES

SEC. 502. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

(b) All surface coal mining operations on lands on which such operations are regulated by a State which commence operations pursuant to a permit issued on or after six months from the date of enactment of this Act shall comply, and such permits shall contain terms requiring compliance with, the provisions of subsections 515 (b) (2), 515 (b) (3), 515 (b) (5), 515 (b) (10), 515 (b) (13), 515 (b) (19), and 515 (d) of this Act.

(c) On and after one year from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by a State which are in operation pursuant to a permit issued before the date of enactment of this Act shall comply with the provisions of subsections 515 (b) (2), 515 (b) (3), 515 (b) (5), 515 (b) (10), 515 (b) (13), 515 (b) (19), and 515 (d) of this Act, with respect to lands from which overburden and the coal seam being mined have not been removed.

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INITIAL REGULATORY PROCEDURES

SEC. 502. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

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(c) On and after one year from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by a State which are in operation pursuant to a permit issued before the date of enactment of this Act shall comply with the provisions of subsections 515 (b) (2), 515 (b) (3), 515 (b) (5), 515 (b) (10), 515 (b) (13), 515 (b) (19), and 515 (d) of this Act, with respect to lands from which overburden and the coal seam being mined have not been removed.



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(b) No permit, revision, or renewal application shall be approved unless the application affirmatively demonstrates and the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant that—

(4) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced pursuant to section 522 (a) (4) (D) or section 522 (c) (unless in such an area as to which an administrative proceeding has commenced pursuant to section 522 (a) (4) (D) of this Act, the operator making the permit application demonstrates that, prior to the date of enactment of this Act, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit) ; and

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Sec. 510(b) No permit, revision, or renewal application shall be approved unless the application demonstrates and the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant that—

(4) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced pursuant to section 522 (a) (4) (D) or section 522 (c) (unless in such an area as to which an administrative proceeding has commenced pursuant to section 522 (a) (4) (D) of this Act, the operator making the permit application demonstrates that, prior to the date of enactment of this Act, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit) ; and



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(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

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Sec. 522 (c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

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(5) the proposed surface coal mining operations, if located west of the one hundredth meridian west longitude, would—

(A) not interrupt, discontinue, or prevent farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands that the regulatory authority finds that if the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the farm's agricultural production, or,

(B) not adversely affect the quantity or quality of water in surface or underground water systems that supply these valley floors in (A) of subsection (b)(5):

Provided, That this paragraph (5) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act (1) produced coal in commercial quantities, and (2) were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors.

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Sec. 510(b)(5) the proposed surface coal mining operations, if located west of the one hundredth meridian west longitude, would—

(A) not interrupt, discontinue, or prevent farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands that the regulatory authority finds that if the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the farm's agricultural production, or,

(B) not adversely affect the quantity or quality of water in surface or underground water systems that supply these valley floors in (A) of subsection (b)(5):

Provided, That this paragraph (5) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act (1) produced coal in commercial quantities, and (2) were located within or adjacent to alluvial valley floors or had obtained specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors.



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Sec. 512 (b) Each application for a coal exploration permit pursuant to <sup>the</sup> ~~an~~ approved State or Federal <sup>lands</sup> ~~program~~ under the provisions of this Act shall be accompanied by a fee established by the <sup>Secretary</sup> ~~regulatory authority~~. Such fee shall be based, as nearly as possible, upon the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program. The application and supporting technical data shall be submitted in a manner satisfactory to the <sup>Secretary</sup> ~~regulatory authority~~ and shall include a description of the purpose of the proposed exploration project. The supporting technical data shall include, among other things—

(8) a statement describing the right by which the applicant intends to pursue his exploration activities and a certification that notice of intention to pursue such activities has been given to the surface owner;

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Sec. 523 (2) Each application for a coal exploration permit pursuant to the Federal lands program shall be accompanied by a fee established by the Secretary. Such fee shall be based, as nearly as possible, upon the actual or anticipated cost of reviewing, administering, and enforcing such permit issued. The application and supporting technical data shall be submitted in a manner satisfactory to the Secretary and shall include a description of the purpose of the proposed exploration project. The supporting technical data shall include, among other things—

(H) a statement describing the right by which the applicant intends to pursue his exploration activities and a certification that notice of intention to pursue such activities has been given to the surface owner;

NOTE: The requirement for coal exploration permits was deleted as to State lands but the issue remains in IDENTICAL SUBSTANCE.

## 11. MAJOR ISSUE: STREAM SILTATION

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(b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—

(10) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

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Sec. 515 (b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—

(10) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by—

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;



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(b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—

(9) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated off-site areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by—

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

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Sec. 516 (b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to—

(9) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated off-site areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by—

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions as measured prior to any mining, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

## 12. MAJOR ISSUE: REPLACEMENT OF WATER SUPPLY

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(E) replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from mining.

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Sec. 515(b)(10)(F) replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from mining.

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(F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

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Sec. 515(b)(10)(F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

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(e) The Secretary, with the written concurrence of the Chief of Engineers, shall establish within one hundred and thirty-five days from the date of enactment, standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles

referred to in section 515 (b) (13) and section 516 (b) (5).

Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

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Sec. 515 (e) The Secretary, with the written concurrence of the

Chief of Engineers, shall establish within one hundred and thirty-five days from the date of enactment, standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles

referred to in section 515 (b) (13) and section 516 (b) (5).

Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.



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(13) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

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(5) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to section 515(e), all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

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Sec. 515(b) (13) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

IDENTICAL SUBSTANCE

Sec. 516(b) (5) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to section 515(e), all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

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(c) (1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection 515(b) (3) or 515(d) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c) (4) (A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

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Sec. 515 (c) (1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection 515(b) (3) or 515(d) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c) (4) (A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

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(3) In cases where an industrial, commercial (including commercial agricultural), residential or public facility (including recreational facilities) development is proposed for the postmining use of the affected land, the regulatory authority may grant a variance for a surface mining operation of the nature described in subsection (c) (2) where—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use;

(B) the equal or better economic or public use can be obtained only if one or more exceptions to the requirements of section 515 (b) (3) are granted;

(C) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be—

- (i) compatible with adjacent land uses;
- (ii) obtainable according to data regarding expected need and market;
- (iii) assured of investment in necessary public facilities;
- (iv) supported by commitments from public agencies where appropriate;

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(3) In cases where an industrial, commercial (including commercial agricultural), residential or public facility (including recreational facilities) development is proposed for the postmining use of the affected land, the regulatory authority may grant a variance for a surface mining operation of the nature described in subsection (c) (2) where—

(A) after consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use;

(B) the equal or better economic or public use can be obtained only if one or more exceptions to the requirements of section 515 (b) (3) are granted;

(C) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be—

- (i) compatible with adjacent land uses;
- (ii) obtainable according to data regarding expected need and market;
- (iii) assured of investment in necessary public facilities;
- (iv) supported by commitments from public agencies where appropriate;

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(v) practicable with respect to private financial capability for completion of the proposed development;

(vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(vii) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

(D) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(E) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

(F) a public hearing is held in the locality of the proposed surface coal mining operation prior to the grant of any permit including a variance; and

(G) all other requirements of this Act will be met.

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(v) practicable with respect to private financial capability for completion of the proposed development;

(vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(vii) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

(D) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(E) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

(F) a public hearing is held in the locality of the proposed surface coal mining operation prior to the grant of any permit including a variance; and

(G) all other requirements of this Act will be met.



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(4) In granting any variance pursuant to this subsection the regulatory authority shall require that—

(A) the toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the out slopes except at specified points;

(D) no damage will be done to natural water-courses;

(E) all other requirements of this Act will be met.

(5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

(6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

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(4) In granting any variance pursuant to this subsection the regulatory authority shall require that—

(A) the toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the out slopes except at specified points;

(D) no damage will be done to natural water-courses;

(E) all other requirements of this Act will be met.

(5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

(6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

IDENTICAL SUBSTANCE

16. MAJOR ISSUE: UNDERGROUND MINING LIMITATION

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(10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operation: *Provided*, That the Secretary may make such modifications in the requirements imposed by this subparagraph as are deemed necessary by the Secretary due to the differences between surface and underground coal mining.

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Sec. 516(b)(10). with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operation: *Provided*, That the Secretary may make such modifications in the requirements imposed by this subparagraph as are deemed necessary by the Secretary due to the differences between surface and underground coal mining.



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## CITIZEN SUITS

SEC. 520. (a) Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf—

(1) against any person including—

(A) the United States,

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulations promulgated thereunder, or order issued by the regulatory authority,

(C) any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this Act; or

(2) against the Secretary or the appropriate State regulatory authority to the extent permitted by the eleventh amendment to the Constitution where there is alleged a failure of the Secretary or the appropriate State regulatory authority to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate State regulatory authority.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

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## CITIZEN SUITS

SEC. 520. (a) Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf—

(1) against any person including—

(A) the United States,

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulations promulgated thereunder, or order issued by the regulatory authority,

(C) any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this Act; or

(2) against the Secretary or the appropriate State regulatory authority to the extent permitted by the eleventh amendment to the Constitution where there is alleged a failure of the Secretary or the appropriate State regulatory authority to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate State regulatory authority.

(b) No action may be commenced—

(1) under subsection (a) (1) of this section—

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(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice in writing under oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, or to the appropriate State regulatory authority, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c) (1) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the judicial district in which the surface coal mining operation complained of is located.

(2) In such action under this section, the Secretary, or the State regulatory authority, if not a party, may intervene as a matter of right.

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

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(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice in writing under oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, or to the appropriate State regulatory authority, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c) (1) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the judicial district in which the surface coal mining operation complained of is located.

(2) In such action under this section, the Secretary, or the State regulatory authority, if not a party, may intervene as a matter of right.

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

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ENFORCEMENT

SEC. 521. (a) (1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or viola-

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ENFORCEMENT

SEC. 521. (a) (1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or viola-



tion also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a) (5) of this section.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 502, or section 504 (b) or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time but not more than ninety days for the abatement of the violation.

tion also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a) (5) of this section.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 502, or section 504 (b) or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, but such violation does not create an imminent danger to the health or safety of the public, or cause or can be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time but not more than ninety days for the abatement of the violation.

## 19. MAJOR ISSUE: NATIONAL FORESTS

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(e) Subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted—

IDENTICAL

(2) on any Federal lands within the boundaries of any national forest except surface operations and impacts incident to an underground coal mine;

SUBSTANCE

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Sec. 522 (e) Subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted—

IDENTICAL

(2) on any Federal lands within the boundaries of any national forest except surface operations and impacts incident to an underground coal mine;

SUBSTANCE

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## FEDERAL LANDS

SEC. 523. (a) No later than six months after the date of enactment of this Act, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: *Provided*, That except as provided in section 710 the provisions of this Act shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program.

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## FEDERAL LANDS

SEC. 523. (a) No later than six months after the date of enactment of this Act, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: *Provided*, That except as provided in section 710 the provisions of this Act shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program.

## 21. MAJOR ISSUE: AMBIGUOUS TERMS

The Administration's recommendation to provide explicit authority for the Secretary to define ambiguous terms was not adopted in either bill.



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TITLE VI—DESIGNATION OF LANDS UNSUIT-  
ABLE NONCOAL MINING

## DESIGNATION PROCEDURES

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes.

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TITLE VI—DESIGNATION OF LANDS UNSUIT-  
ABLE NONCOAL MINING

## DESIGNATION PROCEDURES

SEC. 601. (a) With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State, shall review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

(b) An area of Federal lands may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes, or (3) such mining operations could result in irreversible damage to important historical, cultural, scientific, or aesthetic values or natural systems, of more than local importance, or could unreasonably endanger human life and property.

Note: The added language was in H.R. 25,  
but was rejected in Conference

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review. *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however,* That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

## 23. MAJOR ISSUE: NEPA REQUIREMENTS

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(d) Approval of the State programs, pursuant to section 503 (b), promulgation of Federal programs, pursuant to section 504, and implementation of the Federal lands programs, pursuant to section 523 of this Act, shall constitute a major action within the meaning of section 102 (2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

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Sec. 702 (d) Approval of the State programs, pursuant to section 503 (b), promulgation of Federal programs, pursuant to section 504, and implementation of the Federal lands programs, pursuant to section 523 of this Act, shall constitute a major action within the meaning of section 102 (2) (C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

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## SURFACE OWNER PROTECTION

SEC. 714. (a) The provisions and procedures specified in this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques. In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits, the Secretary shall, in his discretion but, to the maximum extent practicable, refrain from leasing such coal deposits for development by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2 (a) of the Mineral Leasing Act of 1920 (30 U.S.C. 201a), except that no award shall be made by any method other than competitive bidding.

(c) Prior to placing any deposit subject to this section in a leasing tract, the Secretary shall give to any surface owner whose land is to be included in the proposed leasing tract actual written notice of his intention to place such deposits under such land in a leasing tract.

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## SURFACE OWNER PROTECTION

SEC. 714. (a) The provisions and procedures specified in this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques. In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits, the Secretary shall, in his discretion but, to the maximum extent practicable, refrain from leasing such coal deposits for development by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2 (a) of the Mineral Leasing Act of 1920 (30 U.S.C. 201a), except that no award shall be made by any method other than competitive bidding.

(c) Prior to placing any deposit subject to this section in a leasing tract, the Secretary shall give to any surface owner whose land is to be included in the proposed leasing tract actual written notice of his intention to place such deposits under such land in a leasing tract.



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(d) The Secretary shall not enter into any lease of such coal deposits until the surface owner has given written consent and the Secretary has obtained such consent, to enter and commence surface mining operations, and the applicant has agreed to pay in addition to the rental and royalty and other obligations due the United States the money value of the surface owner's interest as determined according to the provisions of subsection (e).

(e) The value of the surface owner's interest shall be fixed by the Secretary based on appraisals made by three appraisers. One such appraiser shall be appointed by the Secretary, one appointed by the surface owner concerned, and one appointed jointly by the appraisers named by the Secretary and such surface owner. In computing the value of the surface owner's interest, the appraisers shall first fix and determine the fair market value of the surface estate and they shall then determine and add the value of such of the following losses and costs to the extent that such losses and costs arise from the surface coal mining operations:

- (1) loss of income to the surface owner during the mining and reclamation process;
- (2) cost to the surface owner for relocation or dislocation during the mining and reclamation process;
- (3) cost to the surface owner for the loss of livestock, crops, water or other improvements.

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(d) The Secretary shall not enter into any lease of such coal deposits until the surface owner has given written consent and the Secretary has obtained such consent, to enter and commence surface mining operations, and the applicant has agreed to pay in addition to the rental and royalty and other obligations due the United States the money value of the surface owner's interest as determined according to the provisions of subsection (e).

(e) The value of the surface owner's interest shall be fixed by the Secretary based on appraisals made by three appraisers. One such appraiser shall be appointed by the Secretary, one appointed by the surface owner concerned, and one appointed jointly by the appraisers named by the Secretary and such surface owner. In computing the value of the surface owner's interest, the appraisers shall first fix and determine the fair market value of the surface estate and they shall then determine and add the value of such of the following losses and costs to the extent that such losses and costs arise from the surface coal mining operations:

- (1) loss of income to the surface owner during the mining and reclamation process;
- (2) cost to the surface owner for relocation or dislocation during the mining and reclamation process;
- (3) cost to the surface owner for the loss of livestock, crops, water or other improvements.

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(4) any other damage to the surface reasonably anticipated to be caused by the surface mining and reclamation operations; and

(5) such additional reasonable amount of compensation as the Secretary may determine is equitable in light of the length of the tenure of the ownership: *Provided*, That such additional reasonable amount of compensation may not exceed the value of the losses and costs as established pursuant to this subsection and in paragraphs (1) through (4) above, or \$100 per acre, whichever is less.

(f) All bills submitted to the Secretary for any such lease shall, in addition to any rental or royalty and other obligations, be accompanied by the deposit of an amount equal to the value of the surface owner's interest computed under subsection (e). The Secretary shall pay such amount to the surface owner either upon the execution of such lease or upon the commencement of mining, or shall require posting of bond to assure installment payments over a period of years acceptable to the surface owner, at the option of the surface owner. At the time of initial payment, the surface owner may request a review of the initial determination of the amount of the surface owner's interest for the purpose of adjusting such amount to reflect any increase in the Consumer Price Index since the initial determination. The lessee

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(4) any other damage to the surface reasonably anticipated to be caused by the surface mining and reclamation operations; and

(5) such additional reasonable amount of compensation as the Secretary may determine is equitable in light of the length of the tenure of the ownership: *Provided*, That such additional reasonable amount of compensation may not exceed the value of the losses and costs as established pursuant to this subsection and in paragraphs (1) through (4) above, or \$100 per acre, whichever is less.

(f) All bills submitted to the Secretary for any such lease shall, in addition to any rental or royalty and other obligations, be accompanied by the deposit of an amount equal to the value of the surface owner's interest computed under subsection (e). The Secretary shall pay such amount to the surface owner either upon the execution of such lease or upon the commencement of mining, or shall require posting of bond to assure installment payments over a period of years acceptable to the surface owner, at the option of the surface owner. At the time of initial payment, the surface owner may request a review of the initial determination of the amount of the surface owner's interest for the purpose of adjusting such amount to reflect any increase in the Consumer Price Index since the initial determination. The lessee



shall pay such increased amount to the Secretary to be paid over to the surface owner. Upon the release of the performance bonds or deposits under section 519, or at an earlier time as may be determined by the Secretary, all rights to enter into and use the surface of the land subject to such lease shall revert to the surface owner.

(g) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

- (1) hold legal or equitable title to the land surface;
- (2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

- (3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

shall pay such increased amount to the Secretary to be paid over to the surface owner. Upon the release of the performance bonds or deposits under section 519, or at an earlier time as may be determined by the Secretary, all rights to enter into and use the surface of the land subject to such lease shall revert to the surface owner.

(g) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

- (1) hold legal or equitable title to the land surface;
- (2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

- (3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

(h) Where surface lands over coal subject to this section are owned by any person who meets the requirements of paragraphs (1) and (2) of this subsection (g) but who does not meet the requirements of paragraph (3) of subsection (g), the Secretary shall not place such coal deposit in a leasing tract unless such person has owned such surface lands for a period of three years. After the expiration of such three-year period such coal deposit may be leased by the Secretary: *Provided*, That if such person qualifies as a surface owner as defined by subsection (g) his consent has been obtained pursuant to the procedures set forth in this section.

(i) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other land owner.

(j) The determination of the value of the surface owner's interest fixed pursuant to subsection (e) or any adjustment to that determination made pursuant to subsection (f) shall be subject to judicial review only in the United States district court for the locality in which the leasing tract is located.

(k) At the end of each two-year period after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the implementation of the Federal coal leasing policy established by this section. The report shall include a list of the surface owners who have (1) given

(h) Where surface lands over coal subject to this section are owned by any person who meets the requirements of paragraphs (1) and (2) of this subsection (g) but who does not meet the requirements of paragraph (3) of subsection (g), the Secretary shall not place such coal deposit in a leasing tract unless such person has owned such surface lands for a period of three years. After the expiration of such three-year period such coal deposit may be leased by the Secretary: *Provided*, That if such person qualifies as a surface owner as defined by subsection (g) his consent has been obtained pursuant to the procedures set forth in this section.

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(k) At the end of each two-year period after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the implementation of the Federal coal leasing policy established by this section. The report shall include a list of the surface owners who have (1) given

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their consent, (2) received payments pursuant to this section, (3) refused to give consent, and (4) the acreage of land involved in each category. The report shall also indicate the Secretary's views on the impact of the leasing policy on the availability of Federal coal to meet national energy needs and on receipt of fair market value for Federal coal.

(l) This section shall not apply to Indian lands.

(m) Any person who gives, offers, or promises anything of value to any surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to induce such surface owner to give the Secretary his written consent pursuant to this section, and any surface owner who accepts, receives, or offers or agrees to receive anything of value for himself or any other person or entity, in return for giving his written consent pursuant to this section, shall be subject to a civil penalty of one and a half times the monetary equivalent of the thing of value. Such penalty shall be assessed by the Secretary and collected in accordance with the procedures set out in subsections 518(b), 518(c), 518(d), and 518(e) of this Act.

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their consent, (2) received payments pursuant to this section, (3) refused to give consent, and (4) the acreage of land involved in each category. The report shall also indicate the Secretary's views on the impact of the leasing policy on the availability of Federal coal to meet national energy needs and on receipt of fair market value for Federal coal.

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(n) Any Federal coal lease issued subject to the provisions of this section shall be automatically terminated if the lessee, before or after issuance of the lease, gives, offers or promises anything of value to the surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to (1) induce such surface owner to give the Secretary his written consent pursuant to this section, or (2) compensate such surface owner for giving such consent. All bonuses, royalties, rents, and other payments made by the lessee shall be retained by the United States.

(o) The provisions of this section shall become effective on February 1, 1976. Until February 1, 1976, the Secretary shall not lease any coal deposits owned by the United States under land the surface rights to which are not owned by the United States, unless the Secretary has in his possession a document which demonstrates the acquiescence prior to February 27, 1975, of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface coal mining methods.

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Sec. 401(b)(3)

*Provided, That an amount not to exceed 20 per centum of such reclamation fees collected for any calendar quarter shall be reserved beginning in the first calendar in which the fee is imposed and continuing for the remainder of that fiscal year and for the period in which such fee is imposed by law, for the purpose of section 507 (c), subject to appropriation pursuant to authorization under section 712 (b).*

Sec. 507

(c) If the regulatory authority finds that the probable annual production of any coal surface mining operators operator will not exceed 250,000 tons, the determination of hydrologic consequences required by subsection (b) (11) and the statement of the result of test borings or core samplings required by subsection (b) (15) of this section shall be performed by the regulatory authority, or such qualified public or private laboratory designated by the regulatory authority and the cost of the preparation of such determination and statement shall be assumed by the regulatory authority.

SEP 14 1976  
9:50

September 13, 1976

MEMORANDUM FOR: JIM CANNON

FROM: DICK CHENEY *signed*

Jim, you ought to consider going up to see or talk to Mr. Delaney on the Rules Committee concerning the Strip Mining Bill. We want to bottle that one up, if we can, and Delaney may be willing to help, especially if you ask him.

Talk with Marsh, and then follow up if it makes sense.

cc: Jack Marsh ←





THE WHITE HOUSE  
WASHINGTON

September 15, 1976

MEMORANDUM FOR: DICK CHENEY  
FROM: JACK MARSH

You should be aware that the House Rules Committee this afternoon granted a rule on the Export Administration Bill by a vote of 9-6.

Also, the Rules Committee voted against granting a rule on the Strip Mining Bill by a vote of 9-5 with one not voting.

