The original documents are located in Box 31, folder "Strip Mining - American Mining Congress Reprints (2)" of the John Marsh Files at the Gerald R. Ford Presidential Library.

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SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 304 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 304

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 25) 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. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendments in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, the reading of House Resolution 304 makes it amply clear that this provides for an open rule with 2 hours of general debate on H.R. 25, 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.

House Resolution 304 provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment.

H.R. 25 is very similar to the conference report that the House adopted last December by a voice vote. The conference report was pocket-vetoed and that is the reason we are here with the new bill.

H.R. 25 provides for the reclamation of previously mined areas. It establishes a reclamation fund for this purpose. H.R. 25 also grants the Secretary of the Interior the authority necessary to promulgate regulations covering the full surface mining and reclamation control programs established in the act.

Mr. Speaker, I urge the adoption of House Resolution 304 in order that we may discuss and debate H.R. 25.

Mr. Speaker, at this point I yield 5 minutes to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Florida (Mr. HALEY).

(Mr. HALEY asked and was given permission to revise and extend his remarks.)

Mr. HALEY. Mr. Speaker, for the fourth time in less than a year, the House will have an opportunity to pass judgment on whether or not we are to have a balanced, effective regulation of surface coal mining in America.

Three times, a majority of our Members have said "Yes." And three times the Senate has agreed with us.

But the President has withheld his approval, and so we once again must consider this bill on its merits. I have little doubt as to what the outcome will be. I predict once again the House will overwhelmingly approve this measure.

That was the action of the Committee

on Interior and Insular Affairs earlier this month in reporting the bill to you for floor action. Since we had spent over 60 days in perfecting the language last year, we retained the bill in full committee this year and asked the executive branch to give us their views. We were presented with what is supposed to be, and I trust is indeed, a unified position on the part of the administration. We were given a list of eight crucial issues to reconsider. This we did in three mark-up sessions that followed.

Four of the eight points were modified along the lines recommended by the administration. Four of them were not modified, because we believed our judgment as to relevant factors remained superior to that of administration witnesses.

Thus, in good faith, we present this bill to you again today and ask for your support.

I urge you to adopt the rule swiftly and to turn your attention to the merits, so that debate can be completed—so we can adopt our version of the legislation this week if possible—and then turn to the Senate bill which passed only Wednesday and is similar to the bill that is before us here.

Then the President will know the mood of the 94th Congress—and I trust it will be a belief so strongly expressed that he will not attempt a veto again.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I favor a sensible strip mine bill to reclaim our land but not one which will add unnecessary costs to coal users and cause further increases in electric rates. I, therefore, must oppose this rule and this bill. I have long advocated a change in our rules on the introduction of bills so that we will designate bills by number only rather than by title; but in view of the fact that we have not seen fit to change our rules in this manner, it seems to me that this bill under consideration today should be known as the 1975 act to increase electric rates in America as it will do exactly that and more.

I think it would be well for Members from the cities—where they consume plently of electricity—to take another look at this legislation, rather than say, "I am going to vote for it and get a good environmental vote from some lobbying group. You cannot reason that you will not be affected because you do not have strip mines in your district. Three-fourths of all strip-mined coal is used to generate electricity—so you are affected and your constituents will be affected.

I might say in my district, within the last couple of weeks, we have had meeting after meeting by people who have had increases in their electric rates based solely on the increased cost of coal. In Ohio, and in many, many other States, the electric companies do not even have to go back to the Public Utilities Commission to get permission to increase rates to consumers when the price of coal goes up. Every electric consumer getting those notices of increased rates every month knows exactly what I am talking about. So if you vote for this bill do not go back home and say, "I did not vote to increase electric rates," because you will be doing exactly that if you vote "aye".

To attempt to maintain that this bill is only putting a tax of 35 cents a ton on surface mined coal and will be passing it along only as a small increase is ridiculous. In fact, it is ludicrous. There are many other costs involved here and they will be passed along to the coal consumers and electric users.

I remember when this matter was before the Rules Committee and I discussed the matter of fees to be collected from an acre of coal with the ranking minority member, Mr. SKUBITZ, and I was surprised by the amount a vein of coal 1 foot thick would yield.

In some of the Western States they have strips of coal that are 40 and 45 inches thick. The fees to be derived from such veins would be difficult to imagine.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, in appearing before the gentleman's Committee on Rules, I tried to point out that, for example, in the State of Kansas the coal vein is approximately 3 feet thick. Now, 1 acre-foot of coal will produce 1,800 tons of coal, and if you multiply 1,800 tons times 3 feet times the reclamation fee of 35 cents a ton, you will know that the producer will have to pay into this fund $1,980.

It does not take that kind of money to reclaim an acre of that land. The expenditure of $250 will do it.

Now, when we take the State of Montana, where the coal vein runs 40 feet to 80 feet in thickness, the reclamation fee on a 40-foot vein will reach $25,2000 an acre—land worth less. Yet it does not cost anywhere near that amount of money to actually reclaim the land.

Where is the additional money going? If you will read this bill, you will see that it is going for "socioeconomic purposes" such as building public buildings, schools, highways, sewers, and water systems.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his contribution.

I might also point out that he mentioned that 32 States already have adequate strip mining laws on the books, including the State of Ohio.

Mr. SKUBITZ. Mr. Speaker, if the gentleman will yield further, let me state that the gentleman is correct.

In addition, I stated also that in this bill the fee to be charged here for reclaiming those lands is to be used for schools and roads, and so forth, and that would be in addition to the charges made in those 32 States to take care of land that is being mined today.

Mr. LATTA. Mr. Speaker, let me add something else.

We are not only doing that, but we are putting money into every State for a new purpose. If a State does not have a college or university teaching a course on mining, the uses of coal and electricity are going to give them one, at costs up to $400,000 a year per State.

The administration suggested only a 10 cents per ton fee, and also advocated many other changes in the bill we have before us today which is practically the same as the one previously vetoed. As a matter of fact, the President sent down to the Speaker—and I am sure every Member of the House received a copy—a statement dated February 6 pointing to various changes needed in this legislation, changes necessary to avoid a possible veto.

Mr. Speaker, for the record I am inserting at this point, the President's list of 8 critical changes and 19 other important changes, which he suggested to improve the bill and reduce its cost to consumers. The bill before us today, H.R. 25, does not include most of these required changes:

CRITICAL CHANGES

1. *Citizen suits.* S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act." This could undermine the integrity of the bill's permit mechanism and could lead to mine-by-mine litigation of virtually every ambiguous aspect of the bill even if an operation is in full compliance with existing regulations, standards and permits. This is unnecessary and could lead to production delays or curtailments. Citizen suits are retained in the Administration bill but are modified (consistent with other environmental legislation) to provide for suits against (1) the regulatory ageney to enforce the act, and (2) mine operators where violations of regulations or permits are alleged.

2. *Stream siltation.* S. 425 would prohibit increased stream siltation—a requirement which would be extremely difficult or impossible to meet and thus could preclude mining activities. In the Administration's bill, this prohibition is modified to require the maximum practicable limitation on siltation.

3. *Hydrologic disturbances.* S. 425 would establish absolute requirements to preserve the hydrologic integrity of alluvial valley floors—and prevent offsite hydrologic disturbances. Both requirements would be impossible to meet, are unnecessary for reasonable environmental protection and could preclude most mining activities. In the Administration's bill, this provision is modified to require that any such disturbances be prevented to the maximum extent practicable so that there will be a balance between environmental protection and the need for coal production.

4. *Ambiguous terms.* In the case of S. 425, there is great potential for court interpretations of ambiguous provisions which could lead to unnecessary or unanticipated adverse production impact. The Administration's bill provides explicit authority for the Secretary to define ambiguous terms so as to clarify the regulatory process and minimize delays due to litigation.

5. *Abandoned land reclamation fund.* S. 425 would establish a tax of 35¢ per ton for underground mined coal and 25¢ per ton for surface mined coal to create a fund for reclaiming previously mined lands that have been abandoned without being reclaimed, and for other purposes. This tax is unnecessarily high to finance needed reclamation. The Administration bill would set the tax at 10¢ per ton for all coal, providing over $1 billion over ten years which should be ample to reclaim that abandoned coal mined land in need of reclamation.

Under S. 425 funds accrued from the tax on coal could be used by the Federal government (1) for financing construction of roads, utilities, and public buildings on reclaimed mined lands, and (2) for distribution to States to finance roads, utilities and public buildings in any area where coal mining activity is expanding This provision needlessly duplicates other Federal, State and local programs, and establishes eligibility for Federal grant funding in a situation where facilities are normally financed by local or State borrowing. The need for such funding including the new grant program, has not been established. The Administration bill does not provide authority for funding facilities.

6. *Impoundments.* S. 425 could prohibit or unduly restrict the use of most new or existing impoundments, even though constructed to adequate safety standards. In the Administration's bill, the provisions on location of impoundments have been modified to permit their use where safety standards are met.

7. *National forests.* S. 425 would prohibit mining in the national forests—a prohibition which is inconsistent with multiple use principles and which could unnecessarily lock up 7 billion tons of coal reserves (approximately 30% of the uncommitted Federal surface-minable coal in the contiguous States). In the Administration bill, this provision is modified to permit the Agriculture Secretary to waive the restriction in specific areas when multiple resource analysis indicates that such mining would be in the public interest.

8. *Special unemployment provisions.* The unemployment provision of S. 425 (1) would cause unfair discrimination among classes of unemployed persons, (2) would be difficult to administer, and (3) would set unacceptable precedents including unlimited benefit terms, and weak labor force attachment requirements. This provision of S. 425 is inconsistent with P.L. 93–567 and P.L. 93–572 which were signed into law on December 31, 1974, and which significantly broaden and lengthen general unemployment assistance. The Administration's bill does not include a special unemployment provision.

Other Important Changes. In addition to the critical changes from S. 425, listed above, there are a number of provisions which should be modified to reduce adverse production impact, establish a more workable reclamation and enforcement program, eliminate uncertainties, avoid unnecessary Federal expenditures and Federal displacement of State enforcement activity and solve selected other problems.

1. *Antidegradation.* S. 425 contains a provision which if literally interpreted by the courts, could lead to a nondegradation standard (similar to that experienced with the Clean Air Act) far beyond the environmental and reclamation requirements of the bill. This could lead to production delays and disruption. Changes are included in the Administration bill to overcome this problem.

2. *Reclamation fund.* S. 425 would authorize the use of funds to assist private landowners in reclaiming their lands mined in past years. Such a program would result in windfall gains to the private landowners who would maintain title to their lands while having them reclaimed at Federal expense. The Administration bill deletes this provision.

3. *Interim program timing.* Under S. 425, mining operations could be forced to close down simply because the regulatory authority had not completed action on a mining permit, through no fault of the operator. The Administration bill modifies the timing requirements of the interim program to minimize unnecessary delays and production losses.

4. *Federal preemption.* The Federal interim program role provided in S. 425 could (1) lead to unnecessary Federal preemption, displacement or duplication of State regulatory activities and (2) discourage States from assuming an active permanent regulatory role, thus leaving such functions to the Federal government. During the past few years nearly all major coal mining States have improved their surface mining laws, regulations and enforcement activities. In the Administration bill this requirement is revised to limit the Federal enforcement role during the interim program to situations where a violation creates an imminent danger to public health and safety or significant environmental harm.

5. *Surface owner consent.* The requirement in S. 425 for surface owner's consent would substantially modify existing law by transferring to the surface owner coal rights that presently reside with the Federal government. S. 425 would give the surface owner the right to "veto" the mining of Federally owned coal or possibly enable him to realize a substantial windfall. In addition, S. 425 leaves unclear the rights of prospectors under existing law. The Administration is opposed to any provision which could (1) result in a lock up of coal reserves through surface owner veto or (2) lead to windfalls. In the Administration's bill surface owner and prospector rights would continue as provided in exising law.

6. *Federal lands.* S. 425 would set an undesirable precedent by providing for State control over mining of Federally owned coal on Federal lands. In the Administration's bill, Federal regulations governing such activities would not be preempted by State regulations.

7. *Research centers.* S. 425 would provide additional funding authorization for mining research centers through a formula grant program for existing schools of mining. This provision establishes an unnecessary new spending program, duplicates existing authorities for conduct of research, and could fragment existing research efforts already supported by the Federal government. The provision is deleted in the Administration bill.

8. *Prohibition on mining in alluvial valley floors.* S. 425 would extend the prohibition on surface mining involving alluvial valley floors to areas that have the potential for farming or ranching. This is an unnecessary prohibition which could close some existing mines and which would lock up significant coal reserves. In the Administration's bill reclamation of such areas would be required, making the prohibition unnecessary.

9. *Potential moratorium on issuing permits.* S. 425 provides for (1) a ban on the mining of lands under study for designation as unsuitable for coal mining, and (2) an automatic ban whenever such a study is requested by anyone. The Administration's bill modifies these provisions to insure expeditious consideration of proposals for designating lands unsuitable for surface coal mining and to insure that the requirement for review of Federal lands will not trigger such a ban.

10. *Hydrologic data.* Under S. 425, an applicant would have to provide hydrologic data even where the data are already available—a potentially serious and unnecessary workload for small miners. The Administration's bill authorizes the regulatory authority to waive the requirement, in whole or in part, when the data are already available.

11. *Variances.* S. 425 would not give the regulatory authority adequate flexibility to grant variances from the lengthy and detailed performance specifications. The Administration's bill would allow limited variances—with strict environmental safeguards—to achieve specific post-mining land uses and to accommodate equipment shortages during the interim program.

12. *Permit fee.* The requirement in S. 425 for payment of the mining fee before operations begin could impose a large "front end" cost which could unnecessarily prevent some mine openings or force some operators out of business. In the Administration's bill, the regulatory authority would have the authority to extend the fee over several years.

13. *Preferential contracting.* S. 425 would require that special preference be given in reclamation contracts to operators who lose their jobs because of the bill. Such hiring should be based solely on an operators reclamation capability. The provision does not appear in the Administration's bill.

14. *Any Class of buyer.* S. 425 would require that lessees of Federal coal not refuse to sell coal to any class of buyer. This could interfere unnecessarily with both planned and existing coal mining operations, particularly in integrated facilities. This provision is not included in the Administration's bill.

15. *Contract authority.* S. 425 would provide contract authority rather than authorizing appropriations for Federal casts in administering the legislation. This is unnecessary and inconsistent with the thrust of the Congressional Budget Reform and Impoundment Control Act. In the Administration's bill, such costs would be financed through appropriations.

16. *Indian lands.* S. 425 could be construed to require the Secretary of the Interior to regulate coal mining on non-Federal Indian lands. In the Administration bill the definition of Indian lands is modified to eliminate this possibility.

17. *Interest charge.* S. 425 would not provide a reasonable level of interest charged on unpaid penalties. The Administration's bill provides for an interest charge based on Treasury rates so as to assure a sufficient incentive for prompt payment of penalties.

18. *Prohibition on mining within 500 feet of an active mine.* This prohibition in S. 425 would unnecessarily restrict recovery of substantial coal resources even when mining of the areas would be the best possible use of the areas involved. Under the Administration's bill, mining would be allowed in such areas as long as it can be done safely.

19. *Haul roads.* Requirements of S. 425 could preclude some mine operators from moving their coal to market by preventing the connection of haul roads to public roads. The Administration's bill would modify this provision.

Now, Mr. Speaker, I think we should have gotten the President's message pretty clearly, but the bill we have before us has only two significant changes from the bill that the President vetoed. Let me mention these changes: The dropping of the unemployment compensation provisions and the lowering of the reclamation tax on underground-mined coal of 25 cents a ton to 10 cents per ton. But the surface-mined coal tax remains at 35 cents a ton and, as I mentioned earlier, three-fourths of the coal is used to generate electricity.

I would think since the President made a pretty good case when he vetoed the previous bill, we should heed some of his suggestions in order to avoid another veto. I think the American people welcomed his first veto and I think they will welcome a second veto unless some changes are made in the bill now before us.

The Department of Interior has estimated that passage of this bill would—

Cut coal production by between 48 and 141 million tons, or 8 to 23 percent of all coal production;

Cause the loss of nearly 50,000 jobs;

Require the daily import of an additional 1.3 million barrels of foreign oil at a balance of payments cost of $5.4 billion, and causing a $2.1 billion loss of purchasing power in the gross national product.

Mr. Speaker, hopefully, during the 5-minute rule, some of these changes the administration would like to see in this legislation will be approved.

I know that all too frequently the Members are away from the floor during the 5-minute rule, and the will of committee usually prevails. Hopefully, Members will stay on the floor and support the administration's amendments when they are proposed to reduce the costs of this bill.

Mr. Speaker, I hope that appropriate changes will be made.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I want to congratulate my good friend, the gentleman from California (Mr. SISK), and the members of the Committee on Rules for acting on this very important matter so expeditiously, and particularly for the adoption of the Moakley amendment that will allow us to consider this legislation on a section-by-section basis.

I think that the gentleman from Arizona (Mr. UDALL) and the gentlewoman from Hawaii (Mrs. MINK) have done a splendid job in getting this legislation before the House of Representatives and in doing it promptly. It is legislation very badly wanted throughout the country. It was passed overwhelmingly in the past. It would be the law of the land now were it not for the action of the President in vetoing it. But the legislation, as it was passed in the last Congress, represented a very much watered-down compromise.

With the increased environmental interest that is represented in this body, with the great number of new Members on both sides of the aisle who were elected to this House largely on environmental platforms, I think the opportunity to strengthen this legislation is very considerable. There is an opportunity to put back some of the things in this bill which were in the original version of it when my friend, the gentleman from Arizona (Mr. UDALL) originally introduced the legislation several years ago. This rule, as amended by the gentleman from Massachusetts (Mr. MOAKLEY), will permit us on a section-by-section basis to have the opportunity to try to put some of these strengthening provisions into it.

I am very optimistic, in view of the new environmental majority that we do have and in view of the very great opportunity that we have, that we will produce even more meaningful legislation. I would like to congratulate my good friend, neighbor, and colleague, the gentleman from West Virginia (Mr. HECHLER), for his splendid leadership in bringing about stronger legislation.

Unfortunately, the Committee on Interior only set aside two days of hearings for this important legislation, and it gave no opportunity whatsoever to the people who sought to testify before the Committee on Interior with respect to strengthening amendments. They did not have an opportunity to be heard at all. As I understand it, the only witnesses who were heard were administration witnesses in support of the bill. And I understand that only one day of the hearings was used. Despite the fact that an additional day was set aside for this purpose, that extra day was not used to permit witnesses who wanted to strengthen this legislation to come before the committee.

I ask the Members of this body whether any of the people who are going to be affected by this legislation were given an opportunity to be heard? They did not get the chance to be heard, and they were not heard. Yet, a great many people's lives and their homes are going to be very directly affected by the degree of protection that we afford them.

I will be offering during consideration of this legislation an amendment which will permit the people who own surface and rights an opportunity for protection under this legislation, which at the present time is only offered property land surface owners where the coal rights on their property are owned by the Federal Government.

I think surface property owners ought to be protected, regardless who owns the mining rights under their home. The property owners who will be affected did not have an opportunity to be heard.

There is very severe concern in this legislation that surface mining on very steep slopes that is particularly devastating, that causes landslides, is not prohibited in this legislation. A new Member of this body who has played a very constructive role and who is the vice chairman of our New Members' Group, the gentlelady from Maryland (Mrs. SPELLMAN), will offer an amendment to prohibit that, to stop cutting off mountaintops and surface mining on very steep areas resulting in mud slides that, in the past, have wiped out communities, have divided communities, and have cut off their access to roads.

As I recall, there was one community, and we saw some moving pictures of it, a number of years back, that was cut off entirely from all road traffic and communications. The community was cut off by landslides resulting from strip mining, and its people could not get through even with trucks. The roads were entirely lost due to the landslide. I think situations such as these should have been considered by the committee. We will have the opportunity to consider such cases in this legislation, thanks to the action of the Committee on Rules.

I hope the rule will be adopted and that the important legislation for which it provides will be passed overwhelming.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute, and I take this time in order to ask the chairman of the committee, the gentleman from Arizona (Mr. UDALL), whether this legislation affects in any way the rights of an owner of mineral rights situated below land owned by the Federal Government.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Yes; I would be happy to yield to the gentleman.

Mr. UDALL. Mr. Speaker, we have in title VII of the bill an extensive provision that was the result of a compromise worked out in last year's conference committee which protects bona fide surface owners where there is Federal coal underneath the land; they have to give their consent before surface mining will occur.

Mr. LATTA. That takes care of the Federal Government when it owns the mineral rights, but I have reference to the opposite situation where the surface is owned by the Federal Government, but the mineral rights have been retained by a private owner.

Mr. UDALL. We did not deal with that problem. I do not know of any instance in which it would arise or be affected.

Mr. LATTA. It is not covered by this bill.

Mr. OTTINGER. Mr. Speaker, if the gentleman would yield, why would not the rights of a surface owner be protected where the mineral rights were not owned by the Federal Government, but were owned privately?

Mr. UDALL. The problem we dealt with was the situation in the instance where private interests owned the surface but the Federal Government owned the coal.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. OTTINGER. If the gentleman will yield further, I think there are situations where private owners own both the surface and the coal, and there is no protection provided.

Mr. UDALL. In that case the whole thrust of the bill is to regulate how to mine coal, whatever the ownership is.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I would like to direct another question to the gentleman from Arizona.

We have a situation down in West Virginia which I planned to present to the Committee on Interior and Insular Affairs, this week, but, of course, I did not have an opportunity to do so, where a number of people own their own homes on land where, many, many years ago the coal companies or land companies had bought up the land.

We now have the situation where these coal companies are coming in and evicting these people from their houses that the people own themselves, and in which they have put permanent improvements, and so forth, and they are not being compensated by the coal company that now, all of a sudden, says "We are going to throw you out of these $8,000 or $10,000 homes because we want to take the coal out from underneath your home."

I am wondering whether the gentleman or his committee would be agreeable to an amendment that would take care

of the rights of homeowners on land where coal is discovered now and where the coal company wants to get in and mine.

Mr. UDALL. I would be glad to look at the gentleman's amendment. We did have some testimony and controversy about the problem of the so-called broad-form deed, but a decision was made by the conferees last year, and it was not changed in this year's bill, that this is largely a matter of State property law and State constitutions. There was a serious question about the ability of the Federal Government to move into this situation.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, if the chairman of the committee would yield further for a question for clarification, if I understood what you said, this bill does not deal with the situation propounded in my question, meaning where a private citizen has sold the surface to the Federal Government and has retained the mineral rights. This bill would not in any way affect the mineral rights of that private citizen?

Mr. UDALL. This is a bill that deals with how one mines coal in that situation and every other situation, but we do not attempt to change property rights in the situation the gentleman talks about and thus the mineral rights are not affected.

Mr. LATTA. I appreciate the gentleman's answer.

Mr. Speaker, I do not have any further requests for time.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, I believe I will support this rule so that we may proceed with the general debate on H.R. 25 and the subsequent amendments for the strengthening of the pending legislation.

I would like to direct a question to the gentleman from California who is handling the rule. As I understand the action of the Committee on Rules, as described by the gentleman, this bill will be read section by section under the 5-minute rule; is that correct?

Mr. SISK. Would the gentleman yield?

Mr. HECHLER of West Virginia. I will gladly yield to the gentleman from California.

Mr. SISK. The gentleman is exactly correct. The rule makes it very clear, and it was duly requested at the time that the various Members appeared before the committee to so provide. It is provided, and it will be read section by section.

Mr. HECHLER of West Virginia. I appreciate the advice of the gentleman. I simply would like to add my commendation to the gentleman from Massachusetts (Mr. MOAKLEY) who made that motion in the Committee on Rules to allow this bill to be read section by section.

As I commented in my testimony before the Committee on Rules, Mr. Speaker, I think it is very unfortunate, however, that the Committee on Interior and Insular Affairs should have shut off and gagged all the Members from testifying at any hearings in 1975. There was no opportunity whatsoever for outside witnesses to testify on the legislation this year. H.R. 25 comes to this House with 91 new Members of this House who were not here last year. Over 20 percent of the membership were not Members of the 93d Congress which debated this bill last year. I believe there are 14 new members of the House Committee on Interior and Insular Affairs who have not previously heard testimony on this piece of legislation.

The American Mining Congress, the National Coal Association, and groups both favoring and opposing this bill have strenuously protested the fact that the Committee on Interior and Insular Affairs did not give an opportunity for either those who wanted to testify on behalf of industry or those who wanted to testify on behalf of strengthening this bill to appear before the committee to present their points of view.

Mr. Speaker, I fully realize the necessity for moving forward on this legislation, but there is absolutely no reason why 1 day could not be set aside—just 1 day—for those Members on both sides, and Members with any points of view different from the committee, to give their recommendations or up-to-date information concerning what the situation is with respect to strip mining.

Let me point out just one little example of information which I doubt the committee even today understands is happening. In the State of West Virginia in the year 1974, 1 year after our previous hearings were held before the Interior Committee, there were 402 applications for permits for strip mining within the State of West Virginia. Of those, only four were denied—less than 1 percent of the permits applied for.

It would seem to me incumbent upon the Interior Committee to review this process, because this piece of legislation puts primary authority on the States to administer the law. It is very difficult in a State such as West Virginia or even in Kentucky, where the coal indusrty's economic and political pressures are so heavy, to get a strip mining law that is going to be enforced strictly and in the public interest.

I think this is a very questionable ruling on the part of the Committee on Interior and Insular Affairs, but it was even more questionable when it was discovered the administration only used one of its 2 days for its own testimony. It could have been easily possible for that additional day to have been set aside for the other witnesses and it is for this reason that I directed this letter to the chairman of the Committee on Interior and Insular Affairs:

DEAR MR. CHAIRMAN: It is my understanding that the House Interior Committee plans to bring the surface mining bill to the floor after hearing only Administration witnesses. By this procedure, only those interested in weakening the bill are being heard.

Representing the Congressional District with the largest number of coal miners, and the largest tonnage of underground mining in the United States (as well as a considerable tonnage of strip mining), I am deeply concerned with the effects of strip mining now and in the future. Considerable data has been developed since I testified before your Committee in 1973, plus a large amount of evidence on state administration of the West Virginia law, and the future effects of the legislation now being considered.

I respectfully request the opportunity to testify before your committee prior to the mark-up of the surface mining bill, in order to insure that your committee receives balanced testimony from those who favor strengthening the legislation as well as those who favor weakening the legislation. Also, I feel that the committee should have in hand 1975 data on the meaning and effects of this legislation, rather than relying on out-of-date data.

In response, the chairman of the committee wrote to me on March 10 as follows:

WASHINGTON, D.C.,
March 10, 1975.

Hon. KEN HECHLER,
Cannon Office Building,
Washington, D.C.

DEAR KEN: As you know, the Committee on Interior and Insular Affairs has reported the Coal Surface Mining legislation to the House.

Early this session, there was some discussion concerning this matter to determine whether or not it would be desirable for the Committee or its Subcommittees to conduct further hearings before taking any action. It was concluded that it was in the best interest of the Nation to pursue the legislation at the earliest opportunity. To this end, the Committee approved a resolution which provided that the bill would be reported after hearing only spokesmen for the Administration on the questions raised by the presidential veto.

While I do not know what the final outcome will be with respect to this matter, I am hopeful that the legislation can be passed by the House and approved in reasonably comparable form by the Senate so that a bill can be presented to the President in the near future. In the event that it is impossible to reach a reasonable compromise, we may have to go back to the drawing boards again. If that occurs, you will undoubtedly have an opportunity to address this issue before the Committee takes any further action.

In any case, I expect you will have an opportunity to make your case to the Members of the House on the Floor.

With kindest regards, I am,

Sincerely yours,

JAMES A. HALEY,
Chairman.

Mr. Speaker, I would simply like to observe that I fail to understand what the Committee on Interior and Insular Affairs had to fear from my testimony.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman from West Virginia for yielding.

I certainly hope that while the gentleman is inserting those letters into the RECORD—and I can assure the gentleman I have no fear and I would have loved to have him there—the gentleman might also insert in the RECORD the vote that was taken on that question.

Mr. HECHLER of West Virginia. I believe the record vote was 29 to 15, if my memory serves me correctly. The record

vote was 29 to 15, I believe, on the legislation. But nowhere in this committee report, which is about 225 pages in length, nowhere is the point of view expressed by those who wanted to strengthen this legislation. There are majority views, there are minority views, there are committee views, there are views of those who support or want to weaken this legislation; but nowhere in this report has the opportunity been given to include the opinions of those affected by the strip mining or those who want to strengthen H.R. 25.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Florida, the chairman of the Committee on Interior and Insular Affairs.

Mr. HALEY. The gentleman from West Virginia appears to be very critical of the chairman of the committee, which happens to be myself. Does the gentleman also know that this resolution reports the bill under certain conditions and holding hearings was in the resolution adopted by the Committee on Interior and Insular Affairs and, of course, the Chair presided and we had to follow those instructions. I hope the gentleman will make that plain.

Mr. HECHLER of West Virginia. Yes. I certainly appreciate the elaboration the gentleman made. I did not mean my remarks to be interpreted as any reflection on the chairman. This is an action of the entire committee. The committee took what I have termed questionable action and I must say that privately a number of members have told me they regretted that this action was taken to deprive members of the opportunity to testify.

The SPEAKER. The time of the gentleman from West Virginia has expired.

Mr. SISK. Mr. Speaker, I yield the gentleman from West Virginia 2 additional minutes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, did I understand the gentleman to say even though there were hearings held on this last year, we do have a number of new committee members and no committee hearings were held this year?

Mr. HECHLER of West Virginia. I will say to the gentleman from California, hearings were held by the Committee on Interior and Insular Affairs in 1973, 2 years ago. Those were the last hearings held up until the time the committee held only 1 day of hearings this year, and only the administration testified. So all the new members, both the new members of the Committee on Interior and Insular Affairs and the 91 new Members of the House, had no opportunity to consider this legislation before it was rushed here to the floor.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Was that part of the reform movement?

Mr. HECHLER of West Virginia. Mr. Speaker, I cannot interpret the reasons for the action. I am grateful to the Committee on Rules for making available this time so that we may read this bill section by section. I think a responsible development of the legislative process is to hear the legislation in the committee, and to give Members of the House an opportunity to testify. Limit the Members, if you will, to 5 or 10 minutes in the committee; but at least give them an opportunity to testify before that committee or submit documentary material for the record.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Ohio.

Mr. LATTA. Would not also the rules apply to give the general public an opportunity to be heard? After all, the people of this great Nation are the ones that are going to be affected by this legislation or any other legislation, not only the Members of Congress.

I have not served on that legislative committee for a number of years, but when I was serving on the Committee on Agriculture, for example, we always gave the general public an opportunity to be heard for or against the legislation. Now, has that been changed?

Mr. HECHLER of West Virginia. The gentleman is absolutely right; not only members of the public, but consumers and others who are affected by the price of coal, people in the areas affected by strip mining, all these people should have been heard by the committee and the committee did not choose to follow that policy.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, I rise in opposition to House Resolution 304. Normally, I support open rules which make in order legislative consideration of bills which have been subjected to normal and orderly committee hearing procedure.

H.R. 25, the so-called Surface Mining Control and Reclamation Act of 1975, was not the subject of legislative hearings before the Committee on Interior and Insular Affairs during the 94th Congress.

Mr. Speaker, many citizens of Virginia, who will be adversely affected by this legislation, wanted an opportunity to be heard so they could save their jobs and their small businesses. I think they could have offered a number of changes to H.R. 25 which would have considerably improved the bill. This opportunity was denied to them.

Mr. Speaker, I include as a part of my remarks the reply of the Committee on Interior and Insular Affairs of February 12, 1975, to my request to allow certain citizens of the Ninth Congressional District of Virginia to testify on this bill:

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., February 12, 1975.

Hon. WILLIAM C. WAMPLER,
Rayburn Building,
Washington, D.C.

DEAR COLLEAGUE: I have your letter and the enclosures indicating that certain constituents of yours would like to have an opportunity to testify on the surface coal mining legislation.

At the February 3 meeting of the Committee on Interior and Insular Affairs a resolution was approved which indicated that it was the sense of the Committee that adequate hearings had been conducted on this matter in recent years and that the Committee contemplates consideration of the various points which the President took into consideration in his veto of the legislation approved by the Congress last year. The Committee concluded that no further public hearings would be needed; consequently, only Administration spokesmen are being asked to come before the Committee. We expect to hold meetings on February 18 and 20 and we anticipate final action on the measure no later than February 27.

I appreciate your interest in this matter and I hope that you understand that the Committee desires to get this legislation before the House as soon as possible.

Sincerely yours,

JAMES A. HALEY,
Chairman.

Mr. Speaker, I urge the defeat of this resolution. Let us have hearings and legislate on the basis of current data and testimony.

Mr. SISK. Mr. Speaker, may I inquire, does the gentleman from Ohio desire to yield further time?

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BRINKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 36, answered "present" 1, not voting 121, as follows:

[Roll No. 51]

YEAS—274

Adams	Bennett	Burlison, Mo.
Alexander	Bergland	Burton, Phillip
Ambro	Biester	Byron
Anderson, Calif.	Blanchard	Carr
Anderson, Ill.	Blouin	Carter
Andrews, N.C.	Bolling	Cederberg
Andrews, N. Dak.	Brademas	Chappell
Annunzio	Breaux	Chisholm
Archer	Breckinridge	Clausen, Don H.
Armstrong	Brinkley	Clay
Aspin	Brodhead	Cohen
AuCoin	Broomfield	Collins, Ill.
Badillo	Brown, Calif.	Conlan
Baldus	Brown, Mich.	Conte
Baucus	Brown, Ohio	Cornell
Bauman	Broyhill	Crane
Beard, R.I.	Buchanan	Daniel, Dan
Bedell	Burgener	Danielson
Bell	Burke, Calif.	de la Garza
	Burke, Fla.	Dellums
	Burke, Mass.	

Derwinski	Kemp	Risenhoover
Dingell	Keys	Roe
Downey	Krebs	Rogers
Downing	Krueger	Roncalio
Diinan	LaFalce	Rooney
Duncan, Oreg.	Lagomarsino	Rose
du Pont	Leggett	Rostenkowski
Eckhardt	Lehman	Roush
Edgar	Levitas	Roybal
Emery	Lloyd, Tenn.	Ruppe
English	Long, La.	Russo
Erlenborn	Long, Md	Ryan
Evans, Colo.	McCloskey	St Germain
Evins, Tenn.	McCormack	Sarasin
Fascell	McDade	Sarbanes
Findley	McEwen	Scheuer
Fish	McFall	Schroeder
Fisher	McHugh	Seiberling
Flood	McKinney	Sharp
Florio	Madden	Shipley
Flowers	Maguire	Shriver
Foley	Mahon	Shuster
Forsythe	Mann	Sikes
Frenzel	Martin	Simon
Fuqua	Matsunaga	Sisk
Gaydos	Mazzoli	Skubitz
Giaimo	Melcher	Slack
Gibbons	Mezvinsky	Smith, Iowa
Gilman	Michel	Solarz
Goodling	Milford	Spellman
Gradison	Miller, Calif.	Stanton,
Grassley	Miller, Ohio	James V.
Green	Mineta	Stark
Gude	Mink	Steed
Hagedorn	Mitchell, Md.	Stokes
Haley	Mitchell, N.Y.	Stratton
Hall	Moffett	Studds
Hamilton	Mollohan	Taylor, N.C.
Hanley	Moore	Teague
Hannaford	Moorhead,	Thone
Harkin	Calif.	Thornton
Harris	Morgan	Traxler
Hastings	Mosher	Treen
Hayes, Ind.	Moss	Tsongas
Hays, Ohio	Murphy, Ill.	Udall
Hebert	Murtha	Ullman
Hechler, W. Va.	Myers, Ind.	Van Deerlin
Heckler, Mass.	Myers, Pa.	Vander Jagt
Heinz	Natcher	Vander Veen
Hicks	Nedzi	Vanik
Hightower	Nichols	Vigorito
Hillis	Nolan	Walsh
Hinshaw	Nowak	Weaver
Holland	Oberstar	Whalen
Holt	Obey	White
Holtzman	Ottinger	Whitehurst
Howe	Passman	Whitten
Hubbard	Patten	Wiggins
Hughes	Patterson, Calif.	Wilson, Bob
Hutchinson	Pepper	Wilson,
Hyde	Perkins	Charles H.,
Ichord	Pike	Calif.
Jacobs	Pressler	Wilson,
Jarman	Preyer	Charles, Tex.
Jeffords	Price	Winn
Johnson, Calif.	Quie	Wirth
Johnson, Colo.	Randall	Wolff
Johnson, Pa.	Rees	Wright
Jones, N.C.	Regula	Yates
Jones, Okla.	Reuss	Yatron
Jordan	Richmond	Young, Fla.
Kasten	Riegle	Zablocki
Kastenmeier	Rinaldo	Zeferetti

NAYS—36

Ashbrook	Hansen	Robinson
Bevill	Jenrette	Rousselot
Burleson, Tex.	Kazen	Satterfield
Butler	Kelly	Steiger, Ariz.
Casey	Ketchum	Stephens
Clawson, Del	Latta	Symms
Collins, Tex.	McCollister	Taylor, Mo.
Daniel, Robert	McDonald	Waggonner
W., Jr.	Montgomery	Wampler
Davis	Patman	Young, Alaska
Dickinson	Poage	Young, Tex.
Gonzalez	Quillen	
Guyer	Roberts	

ANSWERED "PRESENT"—1

Madigan

NOT VOTING—121

Abdnor	Bowen	D'Amours
Abzug	Brooks	Daniels,
Addabbo	Burton, John	Dominick V.
Ashley	Carney	Delaney
Bafalis	Clancy	Dent
Barrett	Cleveland	Derrick
Beard, Tenn.	Cochran	Devine
Biaggi	Conable	Diggs
Bingham	Conyers	Dodd
Boggs	Corman	Duncan, Tenn.
Boland	Cotter	Early
Bonker	Coughlin	Edwards, Ala.
Edwards, Calif.	Kindness	Pritchard
Eilberg	Koch	Railsback
Esch	Landrum	Rangel
Eshleman	Lent	Rhodes
Evans, Ind.	Litton	Rodino
Fenwick	Lloyd, Calif.	Rosenthal
Fithian	Lott	Runnels
Flynt	Lujan	Santini
Ford, Mich.	McClory	Schneebeli
Ford, Tenn.	McKay	Schulze
Fountain	Macdonald	Sebelius
Fraser	Mathis	Smith, Nebr.
Frey	Meeds	Snyder
Fulton	Metcalfe	Spence
Ginn	Meyner	Staggers
Goldwater	Mikva	Stanton,
Hammer-	Mills	J. William
schmidt	Minish	Steelman
Harrington	Moakley	Steiger, Wis.
Harsha	Moorhead, Pa.	Stuckey
Hawkins	Mottl	Sullivan
Hefner	Murphy, N.Y.	Symington
Helstoski	Neal	Talcott
Henderson	Nix	Thompson
Horton	O'Brien	Waxman
Howard	O'Hara	Wydler
Hungate	O'Neill	Wylie
Jones, Ala.	Pattison, N.Y.	Young, Ga.
Jones, Tenn.	Peyser	
Karth	Pickle	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Boland.
Mr. Dominick V. Daniels with Mr. Frey.
Mr. Dent with Mr. O'Brien.
Mr. Barrett with Mr. Harsha.
Mr. Addabbo with Mr. Cochran.
Mr. Diggs with Mr. McClory.
Mr. Henderson with Mr. Devine.
Ms. Abzug with Mr. Kindness.
Mr. Rodino with Mrs. Smith of Nebraska.
Mr. Dodd with Mr. Abdnor.
Mr. O'Neill with Mr. Wydler.
Mr. Brooks with Mr. Horton.
Mrs. Sullivan with Mr. Clancy.
Mr. Staggers with Mr. Talcott.
Mr. Thompson with Mr. Duncan of Tennessee.
Mr. Jones of Tennessee with Mr. Wylie.
Mr. Cotter with Mr. Beard of Tennessee.
Mr. Carney with Mr. Steiger of Wisconsin.
Mr. Bingham with Mr. Peyser.
Mr. Flynt with Mr. Coughlin.
Mr. Fulton with Mr. Snyder.
Mr. Hawkins with Mr. Lujan.
Mr. Howard with Mr. Cleveland.
Mr. Delaney with Mr. Spence.
Mr. Early with Mrs. Fenwick.
Mr. Eilberg with Mr. J. William Stanton.
Mr. Evans of Indiana with Mr. Conable.
Mr. Murphy of New York with Mr. Lent.
Mr. Nix with Mr. Edwards of Alabama.
Mr. Moorhead of Pennsylvania with Mr. Lott.
Mr. Biaggi with Mr. Hammerschmidt.
Mr. Bonker with Mr. Esch.
Mr. Edwards of California with Mr. Goldwater.
Mr. Fountain with Mr. Schneebeli.
Mr. Helstoski with Mr. Eshleman.
Mr. Jones of Alabama with Mr. Sebelius.
Mr. Rosenthal with Mr. O'Hara.
Mr. Rangel with Mr. Ashley.
Mr. John L. Burton with Mr. Moakley.
Mr. Corman with Mr. Hungate.
Mr. D'Amours with Mr. Landrum.
Mr. Derrick with Mr. Macdonald of Massachusetts.
Mr. Bowen with Mr. Mathis.
Mr. Bafalis with Mr. Minish.
Mr. Ford of Michigan with Mr. Mikva.
Mr. Fraser with Mr. Harrington.
Mr. Ginn with Mr. Karth.
Mr. Hefner with Mr. Pritchard.
Mr. Koch with Mr. Steelman.
Mr. Litton with Mr. Stuckey.
Mr. Runnels with Mr. McKay.
Mr. Young of Georgia with Mr. Schulze.
Mr. Conyers with Mr. Symington.
Mr. Fithian with Mr. Ford of Tennessee.
Mr. Lloyd of California with Mr. Meeds.
Mr. Metcalfe with Mr. Rhodes.
Mr. Santini with Mr. Pattison of New York.
Mr. Mottl with Mr. Neal.
Mrs. Meyner with Mr. Pickle.
Mr. Waxman with Mr. Railsback.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 25) 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.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 25, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 1 hour, and the gentleman from Arizona (Mr. STEIGER) will be recognized for 1 hour.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, it has been 3 years 6 months and 12 days since the Subcommittee on Mines and Mining of the House Interior Committee of the 92d Congress opened hearings on legislation to regulate strip mining. Since that day, in 1971, strip mining has been an almost constant topic of legislative actvity in either committee, the House, or in conference, and yet we are still without a law.

Of course, the price of coal has skyrocketed during this period—not because of production costs or inflation, but because the price of oil has simply made Btu's more valuable and more profitable—and a lot of land has been stripped and inadequately reclaimed.

As the committee report on H.R. 25 demonstrates, the need for a sound Federal reclamation law has increased, not decreased, and the proposition of inadequately expanded production is totally unacceptable.

But we are still hearing the same old cry that the strip mining bill is too rigid—too tilted toward environmental values. To the contrary, as the Members of this body well know, H.R. 25 is, with a few modifications, the same bill that the House and Senate passed, but the President vetoed last December.

Every word, sentence, and paragraph of H.R. 25 is the result of careful compromise. With the passage of time, it is easy for the bill's critics to continue to obfuscate the facts, but it is important

to put the issue in perspective and look back to the major compromises that have already been made in the legislation:

First. Environmentalists and many citizens of the Appalachian region argued forcefully that strip mining should be banned—the committee chose, instead, to write a regulatory bill.

Second. Environmentalists maintain that given the dismal history of State regulation, the Federal Government should have primary regulatory authority in implementing the bill. Indeed, the House passed such a bill in the 92d Congress—the committee chose, instead, to vest primary regulatory authority in the States with Federal backup.

Third. Environmentalists maintained that there should be an immediate implementation of all environmental performance standards which would result in a de facto moratorium on new starts—the House rejected this motion and adopted interim standards and a phase-in of the new program.

Fourth. Environmentalists supported placing the agency responsibility in the Environmental Protection Agency—the committee chose to follow the advice of the administration and industry, and placed that responsibility in the Department of the Interior.

Fifth. The environmental performance standards also reflect compromise:

First. The approximate original contour concept is flexible in that it allows mining where there is too little or too much overburden.

Second. There are appropriate variances to the regrading standards to allow mountain-top removal.

Third. Topsoil must be replaced unless other strata are more suitable.

Fourth. Native revegetation must be used unless introduced species are just as good, et cetera.

But having obtained these compromises, the administration and the industry are apparently unsatisfied. With its insatiable appetite for further weakening provisions, the administration now comes to the Congress with lists of "critical" amendments, including such allegedly important provisions as—

Giving the Secretary authority to define "ambiguous terms"—authority which he has anyway, through his power to issue regulations, and

Weakening of a citizen suit provision that is somehow unacceptable in the strip mining bill, although a substantively identical section was approved by the President in the deepwater ports bill the day after he vetoed the strip mining bill.

Of the other eight critical amendments the committee accepted one and adopted modifications or substitutes which addressed the underlying concerns reflected by three others. Specifically, the committee—

Dropped the special unemployment provisions of the act;

Reduced the deep mine reclamation fee from 25 to 10 cents per ton;

Substituted a provision giving the Corps of Engineers supervisory authority over the construction of waste impoundments for the performance standard of H.R. 25; and

Modified the siltation control standard to specify that the best "technology currently available" should be used to reduce siltation.

Moreover, the committee—

Accepted the administration's proposal that some troublesome language in the purposes section should be dropped to avoid overly stringent court interpretation;

Accepted the administration amendment to avoid any possible de facto moratorium on new starts;

Approved an administration amendment to clarify the designation of lands unsuitable for mining mechanism; and

Adopted a number of other amendments that the administration had labeled as "Important Changes."

As Members of this body also know, H.R. 25 was the product of 2 years of extensive debate. Barely 2 months had passed from the last conference committee meeting when the committee quite properly voted to limit full committee markup after inviting representatives of the administration to present their views.

The industry has been particularly vocal in its outrage over the Interior Committee's vote to proceed to markup without taking additional testimony.

The American Mining Congress has, in fact, called for the return of H.R. 25 to committee for the purpose of holding hearings. In so doing, it stated that,

We seek no subtle technical delay.

The Mining Congress' assertion will not be readily accepted by those of us who have suffered through the cynical strategy of delay hatched by industry lobbyists that so effectively prevented the 93d Congress from working its will in a timely manner. Through parliamentary maneuver and interminable amendment, the President had the opportunity to pocket veto the bill.

In the 93d Congress the system broke down and it is up to the 94th Congress to set things right.

We owe no apology to the industry or the administration—their views are well known, their amendments have been considered and some have been adopted. No doubt, some of their amendments will be adopted in these proceedings.

The only apology due will be due to the American people if we are not capable of acting quickly and decisively on this bill.

Thus I shall not take time to rehash the committee position on the major issues presented by this legislation, I have spoken thoroughly to these points during debate on the adoption of the conference report last December.

I will simply urge this body to once again exercise its wisdom and again attempt to give the Nation this badly needed legislation.

Mr. Chairman, In the printing of the Interior Committee report on H.R. 25 (Rept. 94–45) several paragraphs with respect to citizen participation and citizen suits were inadvertently deleted during the printing process. The paragraphs deleted were contained in last year's report under the same section, and even though the legislative history from the last Congress is incorporated in this year's consideration of the bill, I would like to take the opportunity at this time to insert in the RECORD a corrected section on citizen participation for the committee report on H.R. 25 (pages 83–84):

CITIZEN PARTICIPATION

The success or failure of a national coal surface mining regulation program will depend, to a significant extent, on the role played by citizens in the regulatory process. The State or Department of Interior can employ only so many inspectors, only a limited number of inspections can be made on a regular basis and only a limited amount of information can be required in a permit or bond release application or elicited at a hearing. Moreover, a number of decisions to be made by the regulatory authority in the designation and variance processes under the Act are contingent on the outcome of land use issues which require an analysis of various local and regional considerations. While citizen participation is not, and cannot be, a substitute for governmental authority, citizen involvement in all phases of the regulatory scheme will hlep insure that the decisions and actions of the regulatory authority are grounded upon complete and full information. In addition, providing citizen access to administrative appellate procedures and the courts is a practical and legitimate method of assuring the regulatory authority's compliance with the requirements of the Act. Thus in imposing several provisions which contemplate active citizen involvement, the Committee is carrying out its conviction that the participation of private citizens is a vital factor in the regulatory program as established by the Act.

H.R. 25's major citizen participation provisions are as follows:

REGULATORY PROGRAMS

(a) Regulations—180 days following enactment, the Secretary is to promulgate regulations for the Act's permanent program after holding at least one public hearing. (Sec. 501)

(b) Approval of State plan—Prior to the approval or disapproval of a State program, or approval or disapproval of a State's resubmitted program, the Secretary must hold at least one public hearing in the State. (Section 506)

PERMIT PROCESS

(a) Permit Approval or Denial—Prior to submitting an application for a mining permit, the applicant must give notice of intention to submit such application through newspaper advertisements and a hearing on the application shall be granted upon the filing of objections to the application. (Section 513)

(b) Exceptions from general environmental performance standards—H.R. 25 provides for exceptions to specific environmental performance standings relating to spoil placement, backfilling, and other specific standards. Notice and a public hearing are required before such exceptions may be granted. (Section 55(c))

(c) Bond Release—After notice through newspaper advertisement, an operator may apply for a full or partial release of his permit bond. Upon the filing of objections to such release by any person with a valid legal interest, the regulatory authority must hold a public hearing on the matter. (Section 519)

ENFORCEMENT

(a) During the interim program, the Secretary is directed to implement a program of Federal inspections to enforce the Federal interim standards. Upon the receipt of any information which may be furnished by any person, and which gives rise to a reasonable belief that the interim standards are being violated, the Secretary is to order the immediate inspection of the alleged offending operation. The person who provides the Secretary with the information is to be notified as to the time of the inspection and may accompany the inspector during the inspection. (Section 502(f))

(b) A provision similar to that described immediately above is operative after the interim period (Section 521)

The Committee is aware of the concern of some that a relatively open administrative and judicial procedure will allow the participation of individuals with little or no real interest in the issues involved in such proceedings. On the other hand, limiting access to those who have purely economic, or proprietary interests would certainly frustrate the Committee's desire that surface coal mining and regulatory processes be responsive to local citizens and other individuals or groups who have a legitimate stake in the outcome of these governmental actions. The history of coal surface mining is replete with examples of significant environmental and social costs being borne by those who neither profited from the mining activities nor had full access to the institutions of government to correct this unfair distribution of the impact of such mining.

The Committee bill adopts a broad test of standing to participate in such critical decisions as the issuance of a permit, designation of areas unsuitable for surface coal mining and bond release. It is the intent of the Committee that the phrases "any person with a valid legal interest" or "any person having a right which is or may be adversely affected "shall be construed to be coterminous with the broadest standing requirements enunciated by the United States Supreme Court. The Committee is of the belief that the implementation of these principles shall suffice to protect the administrative processes of the Act from possible abuse by individuals whose interest in the questions at issue do not justify granting them the right to invoke the Act's procedures.

The bill also provides for the establishment of the rights of citizens to bring an action against any person, including the appropriate regulatory authority, for the enforcement of the Act as well as actions for damages resulting from the failure of any operator to comply with the provisions of the Act.

The Committee is also aware of the concern expressed by some that the citizen suit provision will encourage the commencement of frivolous suits brought by those who oppose all strip mining. Obviously, judges are quite capable of dismissing frivolous suits early in the proceedings and further protection is available as the judge may require the filing of a bond or equivalent security if a temporary restraining order or preliminary injunction is granted.

Mr. Chairman, one of the most effective and able Members of this legislative body is the distinguished gentlewoman from Hawaii (Mrs. MINK), who chairs the Subcommittee on Mines and Mining of the full Committee on Interior and Insular Affairs. With the gentlewoman from Hawaii I have had the responsibility over the last 2 years of developing surface mining legislation. It has been a great source of pride and satisfaction to me to have this association, and I yield such time as she may consume to the gentlewoman from Hawaii (Mrs. MINK).

(Mrs. MINK asked and was given permission to revise and extend her remarks.)

Mrs. MINK. Mr. Chairman, I want to commend my colleague, the gentleman from Arizona (Mr. UDALL) for his leadership in developing this legislation. It has been my great pleasure to have been serving, also, as chairman of the Subcommittee on Mines and Mining as the gentleman has noted.

Mr. Chairman, the House has labored for many years to perfect the Surface Mining Control and Reclamation Act of 1975. I believe we have finally succeeded despite many delays in hammering out a piece of legislation whose passage would be a real credit to this Congress.

Before proceeding to consideration of this bill, it might be well to recapitulate the long and tortuous legislative course it has followed. Surface mining has been a matter of concern to Congress for many years. The first hearings were held in the 90th Congress. No bills were reported during the 90th and 91st Congresses. The House of Representatives passed a bill (H.R. 6482) in October 1972, but the 92d Congress adjourned before the Senate had completed consideration of the House bill or of its own bill, S. 630.

In the 93d Congress, the House Interior and Insular Affairs Committee devoted a major portion of its attention to a large number of surface mining bills. There were 6 days of hearings in 1973, and on May 14, 1974, the committee reported out H.R. 11500. Floor debate began on the companion bill—passed by the Senate on October 9, 1973—and continued for 6 days prior to passage on July 24, 1974. A protracted series of 18 conference meetings resulted in eventual agreement on December 3, 1974.

The House then failed to pass the conference report under suspension. On December 13, 1974, the bill passed the House on a voice vote, the Senate following suit on December 16. After the adjournment of Congress, President Ford "pocket-vetoed" the bill on December 30, 1974, citing various adverse economic impacts which he judged the bill would cause.

Shortly after the advent of the 94th Congress, the President submitted a list of some eight "critical" and 19 noncritical amendments which he cited as necessary for improvement of the bill. H.R. 25 had been submitted in nearly identical form to the bill he had vetoed. The Interior and Insular Affairs Committee, believing that in light of extensive consideration which had been given to S. 425 in the last Congress, needless delay would result from following the normal routine of subcommittee referral, hearings and full committee markup in addition to subcommittee markup sessions, adopted a resolution dispensing with formal hearings and subcommittee consideration. Instead, the committee received benefit of a presentation by the Secretary of Interior and the Administrator of the Federal Energy Administration, who had been invited to submit their recommendations and amendments. Also invited to appear before the committee were the Secretary of the Treasury, Secretary of Commerce, Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency and the Director of the Office of Management and Budget. However, none of these officials chose to accept the invitation.

Three days of markup sessions were held following these presentations, at the conclusion of which the committee voted 29 to 11 to report H.R. 25 to the House as amended.

Mr. Chairman, H.R. 25, contrary to claims made by the President and others, is not a bill which will throttle the coal industry. It has been carefully, even painfully, designed to prevent any undue slowing down of coal production. The estimates of coal production losses which have been bandied about—and no doubt will be repeated on the floor today—have little substance. Although Mr. Zarb, during his appearance before the committee, was questioned closely about the methodology which was employed in deriving the figures which had been quoted by the President, he was unable to produce any reliable basis for those estimates. All we have to go by is wildly fluctuating guesses as to how many operations might be affected adversely by a given provision of the bill. There is absolutely no hard evidence behind these conjectures.

Nevertheless, the administration has conjured up the specter of hundreds of citizen suits tying up thousands of coal mining operations. Where is the indication of this happening? There is none. In Ohio, which has citizen suit provisions comparable to those in the bill, there has been no rush to the courts. Similarly, the bill's performance standards for steep slopes are said to be prohibitive—they would ban mining on slopes over 20 degrees. In fact, there are strip mine operators in West Virginia and in Pennsylvania right now who are keeping their spoil on the bench, are covering their highwalls and are complying with other important provisions of these standards. There is every reason to believe that strip mine operators, with proper planning and foresight, can comply with these requirements and in many cases reduce their costs into the bargain.

Far from putting a crimp in coal production, this bill will stimulate the industry by removing the cloud of uncertainty and conflict which has prevented its progress toward the President's goal of doubling production by 1980. H.R. 25 will establish the ground rules for rapid and orderly development of our vast coal resources. It will assure that coal costs which have been imposed upon the people of coal-producing regions will be equitably distributed among those who benefit most directly from the production and use of coal: All this, we must all agree, is only just.

There is no question that the industry today can bear its fair share of those costs. The profits of the coal industry have skyrocketed in the past few months, with no apparent relationship to the far slower increase in costs of production. A recent study was issued by the American Public Power Association and is quoted on pages 71 and 72 of the committee report. It depicts graphically how coal profits have broken free of the usual supply-demand factors and have soared into the stratisphere under the impetus of monopolistic forces. It is therefore no longer credible for the coal industry to claim that reclamation costs will be insupportable.

Neither is there any justification for the passing along of these reclamation costs, which are estimated to amount to around 85 cents per ton at most to the utilities and the users of electricity. Coal profits can and should absorb such costs as a normal part of production. If other States will follow the recent example of West Virginia, whose legislature has just enacted a law requiring public hearings and full disclosure of all the relevant facts, perhaps we shall see an end to the unconscionable passthrough of exorbitant coal prices by means of the automatic fuel adjustment clauses. It is this automatic passthrough allowed by State law, which has encouraged the rapid escalation of electricity rates across the country, and contributed to the unprecedented rise in coal profits.

Mr. Chairman, H.R. 25 contains strong provisions for Federal enforcement, environmental protection, citizen suits, and public access to information concerning surface mine operations. I am pleased to report that despite the vicissitudes, these vitally important provisions have been retained almost in their entirety. These aspects of the bill are important, because the past record of State regulation of surface coal mining has been lamentably deficient in enforcement, environmental protection, and citizen participation. This bill will open up the process of decisionmaking to the scrutiny of those whose lives and properties will be most adversely affected by the coal operations, giving them the opportunity to monitor and if necessary, challenge the adequacy of regulation.

At the same time, the bill will assure ample opportunity to every State to establish its own regulatory system, so long as the minimum Federal performance standards are enforced. The bill sets up a uniform and equitable procedure for the extraction of coal now so essential to the security and the well-being of our citizens. In so doing, the bill would prevent the imposition of unconscionable costs upon individuals and upon regions who historically have been the victims of strip mining. In my opinion, Mr. Chairman we have achieved this objective.

Allow me to review very briefly the major provisions of the bill as amended by the Interior Committee, incorporating four of the President's eight critical changes along with several others which he deemed less essential:

First. Implementation: H.R. 25 allows the States 18 months within which to submit regulatory programs for approval by the Secretary of Interior. During the interim period, all coal surface mines would comply with the provisions of a special program. Interim environmental standards would relate primarily to spoil placement, approximate original contour and hydrology. Except for operators who have failed to receive a decision on their application for a permit due to administrative delay, all operators must obtain a permit in full compliance with the approved State or Federal program within 40 months after enactment of the act.

Most important, the Secretary is given full inspection and enforcement powers during the interim period, pending the approval of State promulgation of Federal programs.

Second. Variances: The bill provisions allowing mountaintop removal operations with specific reshaping and internal drainage requirement and imposing qualifications concerning the industrial, commercial, residential, or public facility developments for the postmining land use. Offsite spoil placement with strong stabilization requirements has been allowed. Also, recognizing that wherever there is either too much or too little spoil to return the site to its approximate original contour, some alternative spoil placement provisions are allowed, but the mined area must be blended into the surrounding terrain, and conform to the drainage pattern.

Third. Enforcement: H.R. 25 makes available to the Secretary the full range of sanctions against operators who are in violation of interim environmental standards, providing the kind of tough no-nonsense enforcement of the minimum Federal standards which citizens can and should expect from the Federal Government in implementing this act.

Fourth. Designation of areas unsuitable for coal surface mining: Certain areas are inherently unsuitable for surface coal mining. Among these areas, the bill listed the national park system, the national wilderness preservation system, and the national forests, and alluvial valley floors. Only where the regulatory authority finds that an alluvial valley floor is significant for present or potential farming or ranching operations due to its subirrigation effect, would such a ban apply.

States would establish a process for designating other areas as unsuitable for coal surface mining by responding to petition in making a review of specific areas. Such designations would be mandatory wherever reclamation pursuant to the act is not feasible. Thus the regulatory authority would be given considerable latitude in determining unsuitability.

Fifth. Noncoal mining unsuitability designation: The Secretary is authorized to review Federal areas upon the request of the Governor of any State or upon petition of a citizen presenting allegations of fact. He could designate an area unsuitable for noncoal mining where the land use is predominantly urban or suburban in nature and where possible damage would result to important historic or environmental values.

Sixth. Special bituminous coal mines: We freely acknowledge that some of the act's environmental standards might be impossible to enforce in cases where there is an open pit configuration, without closing the mine.

H.R. 25 includes a provision requiring that these "special bituminous coal mines" would not be exempt but would be subject to variation from the spoil handling, regrading and drainage requirements of the act, at the Secretary's discretion.

Such mines are defined so as to limit eligibility. The special environmental controls which the Secretary would be authorized to impose for such mines would apply only to existing mine pits which have been producing coal in commercial quantities since January 1, 1972.

Seventh. Anthracite coal mines: In a comparable case of considering special geological and operating conditions, the bill contains an exemption for anthracite coal mines. State regulation for anthracite mines are allowable in lieu of the act's interim performance standards, permanent performance standards, and bond limits and liabilities. However, all other provisions of the act would apply.

It is understood that the exemption will apply effectively only to Pennsylvania, where unique problems relating to the environmental protection provisions of the act have been documented. Furthermore, it was understood that the Secretary would be empowered to enforce special regulations and the other provisions of the act should the State fail to do so. The requirement upon the Secretary to report biennially to Congress concerning the effectiveness of the State regulatory program, beginning on December 31, 1975, was incorporated to assure that the purposes of the act will not be circumvented.

Eighth. Alaska study: Coal surface mining in Alaska has been viewed as another peculiar regional situation justifying special treatment in the House bill. The Secretary of Interior, in concert with the National Academy of Sciences-National Academy of Engineering, would conduct a study to result in proposed regulations appropriate to the physicial and climatic conditions in which surface mines in Alaska operate. During the study, provisions of the act would not apply.

Mr. Chairman, it is evident, as in the instance of exemptions applying to Alaska mines, to special bituminous coal mines, and to anthracite coal mines, that the committee has striven to achieve language in the bill which will place responsibility on the Secretary to insure environmental protection in special situations where the arbitrary shutting down of long-established surface coal mines might result in the loss of significant coal production and miners' jobs. I draw attention to these cases to emphasize the care taken in formulating this bill, that the National's coal needs would not be jeopardized thereby.

Ninth. Indian lands: In the matter of Indian lands, the bill calls for a study of regulating surface coal mining on Indian lands. The Secretary would enforce provisions at least as stringent as those of the environmental protection standards of the act, according to the same time frame as that applying to the States, with all operations on Indan lands in full compliance within 30 months of enactment.

Tenth. Mining and mineral resource research institutes: Of great significance in the matter of improving the quality of mining technology and manpower, Mr. Chairman, was the adoption of title III, a provision which would establish State mining and minerals resources research institutes. The bill calls for a two-tier funding system, and schools of mines are to be included in the categories of institutions which would be eligible for funding as institutes.

In the approved version, each participating State will receive $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for 5 years, as in the House bill. The Secretary is also authorized to expend $15 million in fiscal year 1975, that sum to be increased by $2 million each fiscal year thereafter for 6 years to be used for specific mineral and demonstration projects and industrywide application and other projects carried out by the institutes.

The main purpose of the program is the training of mineral engineers and scientists. Contrary to the claims of the administration, there is no comparable training program at the Federal level. Some 35 States are estimated to be in line for qualification under this title.

Eleventh. Abandoned mines reclamation programs: The committee, cognizant of the enormous environmental and social damage left by past surface and underground coal mining, provided programs for the reclamation of previous ly mined lands, to be conducted by the Secretary of the Interior and the Secretary of Agriculture. Funded by a fee of 35 cents per ton for surface mined coal and 10 cents per ton for underground mined coal or 10 percent of the value of the coal at the mine—whichever is lesser—50 percent of the revenues derived in any one State or Indian reservation are to be expended by the Secretary of the Interior in that State or Indian reservation for the purpose set forth in the title.

This program, Mr. Chairman, will place the responsibility for funding a long-overdue program where it belongs—on the shouldlers of the coal industry. As I have already remarked, with the astronomical rise in coal prices which we have seen in the past few months, that should prove to be no great burden. Pass-through costs to users of electricity will be minimal. Without such long-range funding, it is very doubtful whether any truly effective reclamation program can be lanuched.

Twelfth. Unemployment compensation: In order to cushion any regional or community impacts in high density mining areas such as rural Appalachia, the bill originally contained provisions allowing extended unemployment assistance and relief for individuals who lost their jobs through administration and enforcement of the act. Due to objections from the President concerning the possible inflationary effects of this program, the committee deleted this provision.

Thirteen. Surface owner protection: Lastly, Mr. Chairman, the peculiar legal ramifications of coal deposits where title has been retained by the United States and the surface rights were held privately was nearly the undoing of the conference committee in the 93d Congress. A great deal of this coal must be extracted by surface mining methods. The consequent disruption and disclocation of ranchers and farmers in the Western States pose complex questions of equity and social justice. Coal belonging to the people of the United States should not be locked up, nor should those owning the surface above that coal reap outrageous profits for giving their consent to surface mine the coal, nor should the surface owner be deprived of a compensation truly commensurate with his losses, in exchange for his consent.

The surface owner's consent has been legitimized, but in so doing, the bill delimits those qualifying as surface owners in terms of residence, income and means of livelihood, so as to extend protection to ranchers and farmers, and exclude the speculatory. In order to encourage the qualified surface owner to give his consent—without which the Secretary may not lease the coal under his land—a generous formula for compensation was devised. It is based on fair market value of the surface, costs of dislocations, loss of income, damages, and an additional bonus of not more than $100 per acre.

The Secretary, who alone may negotiate with the surface owner for his consent, is made subject to a moratorium on the leasing of any split-fee Federal coal, extending from date of enactment until February 1, 1976. This is to allow Congress a period of time in which to reconsider and if advisable, modify these provisions. The Secretary is to report back to Congress at the end of 2 years following enactment, as to acreage and other factors affecting these provisions, and give his views concerning the impact of availability of Federal coal and the receipt of fair market value.

A penalty clause is incorporated to discourage any side deals between the surface owner and the operator attempting to circumvent the statutory limitation on compensation to the surface owner. Section 716 also imposes upon the Secretary the requirement that he shall "in his discretion by to the maximum extent practicable" refrain from leasing Federal coal underlying lands held by surface owners, as defined.

Mr. Chairman, the task of arriving at a compromise on the protection of the surface owner is indicative of the difficulties which the committee and the conference committee before it faced in striking a proper balance. The bill recognizes our national interest in surface mining Federal coal; it recognizes the just demand of the rancher and the farmer for protection from the destruction of food-producing land; it also recognizes, through the mandatory competitive bidding procedure, the right of the public to be adequately compensated.

I am confident that the bill before us today is sound legislation, a balance of the economic, social, industrial, environmental, and national security factors which have been brought to bear during the past years when Congress has actively considered this legislation. This is an eminently fair bill, Mr. Chairman. I am proud to be associated with H.R. 25, for I believe it will accomplish what all of us ardently desire—the extraction of coal without the subjugation of people whose environment is unavoidably disrupted.

I respectfully urge the passage of this bill, Mr. Chairman.

Mr. SKUBITZ. Mr. Chairman, although I support this legislation, I do so with reservation. It is not a perfect bill, it could be considerably improved. I hope the House will adopt a number of the amendments now pending at the desk.

The President sent us a letter at the beginning of this Congress outlining specific objections to H.R. 25. I listed 8 constructive changes and 19 important changes to make the bill acceptable in view of our current energy shortage. I hope we can concentrate on the adoption of most of those changes.

We certainly do not want a bill that will stop or hinder the production of coal, this Nation's most abundant natural resource. Many are of the view that this bill, as reported, will do just that. I do have specific objections which I hope can be cured through amendment.

First, I do not feel the reclamation fee of 35 cents per ton on stripped coal and 10 cents per ton on deep mined coal is fair. I believe this fee is much too high and will raise far more revenues than are needed to reclaim abandoned lands. I would like to see the fee dropped to 15 cents on strip mined coal. I believe this amendment will be sufficient to reclaim only abandoned stripped lands.

The reason for the higher fee, the committee thought it wise to bring in sufficient moneys to pay for socioeconomic benefits. This included construction of highways, schools, public facilities, and even housing rehabilitation for affected miners. Now I ask you, why are we meddling in areas totally unrelated to the mining of coal.

These higher fees as suggested in the committee bill will be passed on to the consumer. As a result the users of electricity in your State will be paying for the construction of roads and public facilities in a State like Montana where we might reasonably be expected to obtain our coal. This should not be, it is not the case now and I do not believe we should establish the precedent here. Let us lower the reclamation fee to 15 cents across the board.

Mr. Chairman, I am also very much concerned that the citizens suits section of H.R. 25 creates the possibility of damaging individual rights where such a result is not needed to properly enforce the bill. As reported, H.R. 25 permits citizen suits against mine operators even though the operator is in full compliance with a permit issued by the regulatory authority pursuant to the act. The result is liability without fault.

Such a result is not necessary. The act can be fully enforced through actions against the regulatory authority. The defense of sovereign immunity is not permitted the regulatory authority in these actions. Thus, a citizen who feels the act is being violated even though the mine operator is in compliance with his permit, must charge the regulatory agency for an improperly issued permit. The liability springs from the fault.

The language suggested by the administration eliminates the potential for liability without fault. It does not shield the mine operator from actions properly arising from a violation of his permit. It allows for the proper enforcement of the act without disruption of the limita-

tions on personal liability. I hope the language is adopted on the floor.

These are only two of the changes I believe are necessary to make this a workable piece of legislation. If the amendments now pending at the desk on citizen suits and changing the reclamation fee are adopted, we will have a much better bill. I urge my colleagues to consider them fairly and in an atmosphere of negotiation and understanding. I do not want to believe, as rumor may have it, that the decisions on whether to accept or reject amendments have already been made prior to their debate here.

The CHAIRMAN. Does the gentleman from Arizona wish to yield time?

Mr. STEIGER of Arizona. Mr. Chairman, the gentleman from Michigan (Mr. RUPPE), the ranking minority member of the subcommittee will have control of the time and will be the leadoff spokesman for this side.

Mr. RUPPE. Mr. Chairman, I yield to the gentleman from California (Mr. LAGOMARSINO) such time as he may consume.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman from Michigan for yielding.

I will not at this time take the opportunity to speak on the bill but I would like to take the opportunity to announce to our colleagues in the House that our colleague, the gentleman from California (Mr. BARRY GOLDWATER, Jr.), has just become the father of a baby boy. I know our colleagues will want to join in congratulating him and his wife, Susan. Incidentally, his wife Susan and the baby are both doing well.

Mr. RUPPE. Mr. Chairman, I yield to the gentleman from California (Mr. DON H. CLAUSEN) such time as he may consume.

(Mr. DON H. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I strongly support passage of this legislation. In my opinion, there is a definite need for it. A number of areas need perfecting, but I am confident that this will be accomplished through the amending process.

As the ranking minority member of the Flood Control Subcommittee, I was called upon to visit the disaster area in Buffalo Creek, W. Va. This made a lasting impression on me as it was clear to me that the disaster occurred as a result of inadequate State regulation over the coal mining operations in that area. It resulted in a number of lives lost and in my view it was truly an unforgiveable situation.

This legislation will establish very strong environmental standards. As I have stated in the past and as my colleagues have stated today, the basic criteria is that we must insist on the full and complete reclamation of mined lands. At the same time, we must prevent the mining of those lands which, for one reason or another, cannot be reclaimed.

In addition, the bill requires that lands be returned to the approximate original contour and requires they be covered by vegetation. The land must come as close to resembling its premining appearance as possible. It is important to point out that this requirement is not intended to require restoration of mined lands to their original elevation, but to a similar configuration.

In all candor, I regret the fact that this legislation is necessary at all. Had the States moved forward and adopted their own surface mining legislation, the Federal Government would not have had to involve itself in this legislative effort.

Even so, the States under this legislation still have the opportunity to develop their own plan—one that they can live with. The Federal Government will only intervene when the basic minimum standards of this legislation are not adhered to.

Essentially, it is directed toward protecting against landscape devastation by an irresponsible operator.

I would like to commend my colleague (Mr. RUPPE) on his leadership in providing a section of the bill dealing with research, training, and skill development programs in the mining industry.

It is generally understood that the basic reasoning behind this legislation at this time is to have these surface mining standards established in advance of the upcoming accelerated effort that is going to be required in order to permit coal production to give us the badly needed alternative energy source.

The expanded use of coal is a key immediate energy source needed to avoid the problems of the threatened oil embargo and to move us toward energy self-sufficiency.

One of the provisions of the bill which I feel strongly needs amending is the 35-cent-per-ton reclamation fee. Based on very careful research, it appears to me that a fair fee structure would be a 10- or 15-cent-per-ton fee.

Many people are concerned about increasing costs of energy. Some estimates are that passage of this bill in its present form might increase the cost of electricity in those areas utilizing coal by as much as 15 percent.

For this reason, I am making a strong plea to all Members to seek a ways and means through the amending process where we can pare down any possible increase to the consumer. If we reduce the 35-cent-per-ton fee to 10 cents per ton, it would have an appreciable effect on the ultimate cost to the consumer.

In conclusion, I recommend enactment of this legislation. As I have said, there are a number of areas which we can perfect by way of amendments but the approach taken by this bill is sound and equitable. I urge my colleagues to support it.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 25 and I wish to compliment all those on the committee and the subcommittee who worked so hard to bring this legislation to the floor today, it is essentially good legislation and on balance, I strongly support it.

I might say at the present time the bill the House has before it was essentially the conference report of the 93d Congress. There have been some changes over last year's version but the bill remains essentially a strong compromise that will alter mining practices in the Eastern mountains where decades of abuse have left hundreds of thousands of acres useless and will protect the West, but it will not stop the spread of responsible coal mining in either of these two settings.

There are some who would wish to stop strip mining altogether but the fact is that this country cannot afford to take that course of action. I would not go so far as to say it would be a question of suicide in terms of pressure on our energy resources, but certainly it would be debilitating to say the least to take that course of action. Others would have us do little to alter the current practices of mining on mountain sides and even less to assure that surface mining will not harm our Western States. Most of us have seen either personally or by way of photographs the devastation which has been left by irresponsible and uncontrolled strip mining. If nothing else it was these sights that provided the impetus for legislation such as H.R. 25. We simply cannot allow these practices to continue.

In my judgment H.R. 25 strikes a balance. It allows strip mining but only if the land will have been reclaimed and the eyesores of the past are not perpetuated or repeated and only if we can insure that the mined land can continue to serve man in a useful and beneficial way.

We have tried to protect our precious environment but in a way which will not hinder either the immediate requirements for energy needs or the requirements in the not too distant future.

Granted, we are consistently and constantly seeking new forms of energy. In my opinion, one of the most important pieces of legislation which the Congress passed during the past session was the Energy Research and Development Act, the very title of which implies that we recognize that we must search for alternative sources of energy. We cannot assume the scientists will be able to invent or perfect new energy techniques tomorrow or even in the next decade but we must adequately meet our requirements. Therefore we must assume we will need the coal we have in the East and in the West as well.

I would like now to address two points of contention. One is raised by those who would have us not regulate the practice or at the most on a minimum basis.

Some have said that it is impossible to reclaim land after it is stripped. Oh, they say you can throw some topsoil on it, plant some grass, but it is never going to resemble the same configuration or serve a useful purpose. From my view, that is simply not a true statement. During some of my field trips to Ohio and Pennsylvania the Interior Committee saw reclaimed lands—lands that had contour, that were green, that looked like they belonged.

I personally remember talking to a

farmer, I believe it was in Ohio, who stated his farm was more productive after reclamation and after mining than prior to strip mining. For example, he indicated the water draining was far superior. We must also remember that reclamation techniques are constantly being improved, so if what we have now can do the job, reclamation will be even better in a few years. I personally reject arguments to the contrary as pure scare tactics.

I also reject as scare tactics that enactment of this legislation will result in substantial losses in terms of coal mined.

At this point, I will insert in the RECORD a short chart I have prepared illustrating the effects of the Ohio and Pennsylvania laws regulating strip mining:

COAL PRODUCTION

State and year	Number of operators	Surface coal production (in million tons)
Ohio:		
1971	267	38.5
1972[1]	271	34.6
1973	207	29.6
1974	377	30.6
Pennsylvania:		
1971	584	28.5
1972[2]	679	26.5
1973	830	30.2
1974	846	42.0

[1] The law took effect in April 1972. 1972 figures affected by a 1-month strike in January.
[2] The law took effect in January 1972. 1972 figures affected by a 1-month-long strike in January.

These figures show that, indeed, there is an initial lapse in production. However, it should be pointed out that neither of these States' statutes provided for an interim period, as does H.R. 25, with relatively relaxed environmental standards and administrative procedures, so that the full implementation could be eased into. These figures do indicate that production began to rise again after the first year. If the 1972 figures seem too low, perhaps it should be emphasized that in that year there was a month-long strike in the coal industry.

The figures also show an increase in the number of coal operators. In Pennsylvania, the year before enactment, there were 583 operators. However, in 1973, the year after enactment, there were 830 operators, or almost a 50 percent increase. My interpretation of these figures is that coal surface mining laws would not significantly hurt production—that once the industry knows the regulations and starts to work in accordance with them, production will definitely and absolutely rise. By the very fact that there has been a substantial increase in the number of operators, goes to show that the industry can live with the regulations and still make a profit.

I can assure this House that these new operators did not go into the business because they had nothing better to do. I am sure the profit motive was very much in their minds.

Also, in terms of coal production, I would think that the present uncertainty of the situation must have some effects on present operations or those which are scheduled to begin in the immediate future. I cannot help but think that the industry would be hesitant to initiate openings in anticipation of this legislation. They know they are going to be regulated. They just do not know exactly how.

I would caution that I do not expect coal production to take a dramatic leap immediately after enactment. While the uncertainties of the present situation would be clarified, this is but one fact influencing production. Others having a great impact would seem to be the question of the allowance of the use of high sulfur coal, the problems of transporting mined coal, the availability of trained mining personnel, and this country's economic situation in general.

I would now like to switch directions. One of the most personally frustrating aspects of my prolonged relationship with this, and prior, strip mining legislation has been that those of us who have tried to strike a balance—who have insisted that strip mining could be done in a responsible manner—have always had to be on the defensive. We have been damned from all sides. We constantly heard that we had gone too far there or not far enough in another place. I think we can probably pat ourselves on the back because the criticism is coming from both ends of the spectrum. I think this indicates that we have struck the balance we were after all along. But, I, for one, am tired of defending. The supporters have spent most of their time answering the charges of those in opposition. Maybe this is only natural because it is a controversial matter. But, I would like to reverse that now, if just for a moment, and talk about what is good about H.R. 25.

The most obvious "good" point is that we have written some tough environmental standards into this legislation. The prime example is that if land cannot be reclaimed, it cannot be mined. That is a pure and simple statement of fact that is explicit in this legislation. Also, we insist on elimination of high walls. We prohibit the placement of spoil on the downslope. We insist on vegetative cover.

However, we plainly realize that the lands which will be mined vary in terms of their physical characteristics, and as a result we have provided rational flexibility. We do not mandate that the mined land be returned to exactly the same shape as it was prior to mining. What the committee has obliged operators to do is to return the land to its "approximate original contour." It should be emphasized here once again, as I have attempted to do many times in the past, that "approximate original contour" does not mean that the land must be returned to original elevation. This would be patently ridiculous in the case of a thick seam of coal covered by a relatively thin stratum of overburden. When this coal is mined, it will create a depression that could not be returned to the original elevation without hauling an enormous amount of materials from some other location, there by creating a similar depression elsewhere. Therefore, the committee bill requires that the coal operator regrade the mined area inside and around the perimeter of the mined area so that the depression blends into the surrounding terrain, and that within the mined area, the surface of the land "closely resembles" its premining configuration.

This is a rational, reasonable, but, frankly, a tough standard that does not require the impossible.

A second good point of this legislation is that it is a State-lead bill. Each State which has, or expects to have, coal surface mining operations is provided 18 months after enactment to submit a State program to the Secretary of the Interior for approval. This is not the Federal Government dictating to the States what they must or must not do. It is only when the State fails to submit a program, or when it has failed to be approved, or when the plan, or portion thereof, is not enforced or implemented by the States, that the Federal Government may step in with its plans and regulations.

Another significant part of this legislation is that we allow citizen input throughout the process. I personally feel that one aspect of the citizen suit provision goes substantially too far, and I will offer an amendment at the appropriate time to limit this course of action in one instance. We recognize that citizen involvement in the administrative procedures can be a very important check on governmental agencies and will insure that decisions are not made capriciously and that actions are taken with full and complete information.

The committee also recognized the difficulty of imposing our strict standards on the States and on the operators immediately upon enactment of this legislation. On the other hand, we were not going to allow an extended period after enactment in which irresponsible operators could strip free of all regulation. Therefore, we wrote in a very sensible interim program that will give all concerned a period of time to accustom themselves with the new law and regulations but insist in the meantime on a few specific environmental standards.

The final good point which I will address at this point is the recognition by the committee that it is important for us to foster research and training in the fields of mining and minerals. This country has a critical need today for technical personnel in these areas. Michigan Technological University, situated in Houghton, Mich., in my congressional district, is known as one of the leading institutions in the country in the fields of mining and metalurgical engineering. However, at the present time, Michigan Tech is only graduating approximately 40 students per year in these fields, and does not even begin to meet the industry's needs. This country must respond to the urgent needs of resource development, and, therefore, in H.R. 25 we have established mining and mineral research institutes to train the manpower to meet our future requirements.

Grants will be provided on a matching basis to a school, division, or department which conducts a program of substantial

institution and research in mining or minerals extraction. We have placed primary importance on the training of mineral engineers and scientists. We authorize an initial sum of $15 million in fiscal 1975, and increase this figure annually by $2 million—for 6 years. These grants will benefit the mining industry, the environment, and society in general. Aside from our environmental standards, I personally consider this one of the most important, long-range aspects of this legislation.

I would conclude by saying that the coal industry stands at the brink of an era in which it can, must, and will make significant contributions to the Nation's energy supply picture—more now, I would say, than ever before. But at the same time, we are in an age of environmental awareness and respect. These two facets of our present-day circumstances are at times at odds with each other. We, the Congress, must step in and provide the machanism whereby cooperation is mandated. We must set the environmental ground rules for the coal industry's expansion. These ground rules should assure that the natural environment is protected to the greatest extent feasible without cramping unnecessarily the necessary operations.

I think H.R. 25 accomplishes this. I do not pretend or do not believe that H.R. 25 is perfect legislation.

In fact, I would like to take just a moment to talk about the surface mining fee, and I would like to take a minute to indicate in my opinion that this 35-cent fee on surface mined coal is a completely unwarranted burden on the taxpayers of this country at a time when coal prices are as high as they are today. I think that we in the Congress should be cognizant of every penny we impose upon the taxpayers and consumers of this country. I think that we have to be absolutely sure that any charge levied upon them is indeed warranted. If reclamation of the land does mean a little higher price for coal, in my opinion it is necessary and should be paid. But the fee of 35 cents on surface mined coal per ton is outrageous because these funds can be used for purposes other than reclamation orphaned lands. It has been stated in the past that these moneys could be used for housing construction. This is not true, as there is a flat prohibition against this type of use in the bill. They can be used for the construction of public facilities and other improvements, such as sewer and water extensions. No matter how you slice it, in my opinion, this is a type of pork barrel provision. I think a 10-cent across-the-board fee is adequate to reclaim the abandoned lands. If it is not, we can increase it in subsequent sessions of this Congress.

But I think the American people at this time cannot afford to have us expend great sums of their money unless it is absolutely proven to be necessary.

Mr. Chairman, I would like to state, in conclusion, that I will be supporting certain modifications of this legislation which I feel we need and which are necessary to be made. However, because it is workable legislation, I intend to support this legislation on the floor when it comes to final passage.

I would like to say again it is not, as some would indicate, an industry bill, nor, as some would allege, the product of environmental extremism, but it is the best effort of the Committee on Interior and Insular Affairs to bring us legislation on an extremely complex issue.

Mr. Chairman, I believe that the members of the subcommittee, the members of the full committee, my colleague, the gentleman from Arizona, and my colleague, the gentleman from Hawaii, have done an excellent job in preparing this legislation and in bringing it to the membership of this House.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I was most interested in the gentleman's statements, because, as he recalls, I toured the coal mining areas with the gentleman in the well last year.

The gentleman mentioned a farmer in Ohio, I believe it was, and he pointed out the fact that this farmer had indicated that his crops were even better on this reclaimed land.

Would the gentleman indicate for the RECORD that this man was farming under a State law, that there had been no Federal regulations and it seemed to be working extremely well?

Mr. RUPPE. Mr. Chairman, I certainly want to indicate that this man came from Ohio. There should be no question about this fact and it should be brought to the attention of the Members of this House that he was operating under a State law.

In fact, I think Ohio and Pennsylvania are both exemplary instances of the type of legislation which, if enacted throughout the country, would have precluded the necessity for our being on the floor here today. I regret to say that there is a wide number of States that have not done as good a job as either Ohio or Pennsylvania have succeeded in achieving.

I certainly would say to the people of those States and indeed to their legislatures that they have done a superb job in developing, in both instances, State legislation which is completely on target and which does a very fine job of protecting environmental standards and values in those States.

Mr. Chairman, I thank the gentleman from California for his comments.

Mr. UDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, there is a time to sow and a time to reap.

The Creator caused the formation of the coal in rich deposits in the West and particularly in my State of Montana. There are 106 billion tons—42 billion is strippable. The highest of any of the 50 States.

If now is the time to reap the rich harvest of coal in the West and to do so by stripping the land from the veins of coal 20 to 70 feet thick, westerners must insist that the full force of Federal law require these minimums:

First. No strip mining where reclamation cannot be guaranteed to bring the land back to as good or better condition and production as it was before mining—absolute enforcement to bring the land back to complete reclamation;

Second. Water, whether it is on the surface or underground cannot be diminished, diverted or in any way altered that is detrimental to those of us in the West, to those of us who depend on it as if it were our lifeblood;

Third. The rights of the landowner to which the mineral estate has been retained by the Federal Government must be recognized and guarded. The landowner must have the prerogative to say "no" to the mining of the federally owned coal, and if on the other hand the landowner agrees to the mining, he must be compensated adequately for his losses;

Fourth. There is a Federal responsibility for social impacts and social needs for schools, roads and health care for people in sparsely settled areas where there is rapid population growth due to energy development; and

Fifth. Indian tribes must be given the opportunity to evaluate proposed coal strip mining operations on their reservations and assured the rights of stronger provisions of their own determination in reclamation on their own reservation lands.

This bill meets these five minimum requirements and in none of these areas can we of the West stand to have the requirements lowered. We must say, "Hands off" to weakening amendments.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. BALDUS).

(Mr. BALDUS asked and was given permission to revise and extend his remarks.)

Mr. BALDUS. Mr. Chairman, I would like to give vigorous support to the amendment by Mr. MAZZOLI to allow colleges and universities with substantial mining and research curriculums to qualify for coal research funds.

It seems grossly unfair to have the qualification for these funds rest on the number of faculty persons employed and the title of the institution. The distinction should be made rather on the scope and quality of the institution's program. This, I submit, can be determined by curriculum offerings, research contributions and historical contributions of alumni.

The fact that a university does not have "a school of mines, division, or department" and that it employs one, two, three, or four full-time faculty persons rather than five or more should not be the determining factor.

The University of Wisconsin at Platteville has been a respected institution in the area of mining instruction and research for many years. Under the current wording of the bill, this university would not qualify for research funds because it employs only three full-time faculty members in its mining area.

Mr. Chairman, it is my hope that the amendment will be adopted.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from North Dakota (Mr. ANDREWS).

(Mr. ANDREWS of North Dakota asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

I certainly support the legislation. Protection for our environment and protection for the surface holders is there.

I would hope that we can make some amendments to the legislation, however; and I intend to offer that type of amendment to bring about needed equity in the reclamation fee provisions of the act. The present provisions of this legislation call for a straight 35-cent a ton tax or 10 percent of the coal's value, whichever is less.

This type of tax discriminates directly against lignite coal, which has less than one-half the Btu content of bituminous and anthracite coal.

Let me give the Members the figures. For example, the average Btu rank of coal is as follows: Anthracite has about 14,000 Btu per pound; bituminous is 13,100; subbituminous is 9,500; and lignite is 6,100 Btu per pound.

Therefore, the Members can see that on $35 a ton coal, which is the price of a lot of coal, we have a 1-percent severance tax. On $17.50 coal we have a 2-percent severance tax. Yet, in the case of lignite coal, which is valued at about $2.50 a ton because of transportation, water content, and low Btu content, we have a tax that comes close, in this case, to the 10-percent level. Yet with lignite coal which would be taxed at 10 percent of value rather than 1 or 2 percent, it takes more than twice the amount of lignite and far more tax to achieve the same heat content.

This will result in a higher rate of tax on the consumers who use lignite coal for energy, whether it be in the form of electricity, steam, or whatever. It is the Btu heat content of the coal that is important to the consumer, and the lower the Btu value of the coal, the greater the tax, and the greater the amount of coal that must be burned to produce a certain amount of heat.

It is not the coal companies who pay this extra tax; it is the consumer, and I am not talking about the private power companies. I am talking about the rural electric cooperatives owned by those they serve because they are the chief users of this lignite coal.

Mr. Chairman, I have in my hand a letter from the manager of Basin Electric Power Cooperative whose board of directors includes people from Minnesota, Nebraska, Montana, South Dakota, and Iowa as well as North Dakota and who say that they wholeheartedly support the concept of my amendment because they feel it is simple equity to relieve lignite users from having to pay the lion's share of rehabilitating strip mined land that was ravaged 50 years ago." He also points out that the disproportionate tax could have serious consequences on our agricultural economy.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Montana.

Mr. MELCHER. Will the gentleman's amendment specify lignite?

Mr. ANDREWS of North Dakota. The gentleman's amendment does specify lignite, yes.

Mr. MELCHER. The gentleman is speaking of an amendment that would reduce the 10 percent figures to 5 percent at a point where the language refers to all kinds of coal, but if the gentleman's amendment is only with rsepect to lignite, it would be more appropriate to do what the gentleman is describing by including in his amendment a specific reference to lignite only—not all coal.

Mr. ANDREWS of North Dakota. If I can get the support of the gentleman from Montana by putting in the word "lignite," all right. I have an amendment published in the RECORD that exempts lignite from the tax. I have another one that goes from 10 percent to 5 percent. I have been told by the gentleman on the committee that the 5 percent would only apply to lignite because of the unique character of that fuel. I would like to point that out to the gentleman. But certainly specifying "lignite" will not change my amendment's purpose in any way.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Arizona.

Mr. UDALL. The gentleman from Montana tells me privately that there are contracts in his State and elsewhere that run in the range of $2 or $2.50 and that are not lignite. The amendment proposed by the gentleman from North Dakota would be much more acceptable to me if he would redraft it to apply only to lignite.

Mr. ANDREWS of North Dakota. This amendment will be redrafted to specify lignite coal because this is specifically what we have in mind.

Actually, we ought to realize that this has a great deal of bearing on the energy crisis, too. The reports tell us that for every ton of lignite we utilize for electricity, we will save 90 gallons of fuel oil.

North Dakota lignite comes from an area of the country where the winter temperatures are often 40 below zero, and we believe that if we can produce electric heat from lignite coal we can save a lot of fuel oil and natural gas which can be better used for other purposes in other parts of our country, but if we indirectly encourage increased use of heating oil by excessively taxing lignite. then we will have detrimental ramifications.

So I would hope that in the interest not only of our area but in the interest of the energy needs of the entire country that this House will support the amendment that I will offer.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. TAYLOR).

(Mr. TAYLOR of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. TAYLOR of North Carolina. Mr. Chairman, H.R. 25 is a product of protracted debate at all levels of congressional consideration—in subcommittee, committee, here on the floor of the House of Representatives, in the Senate and in conference. It is also being considered at the White House.

Few measures brought before the House have been given as much attention as this legislation. During the last Congress it was studied in detail by the members of both the Subcommittee on Mines and Mining and the Subcommittee on the Environment. Field trips to inspect some of the Nation's principal surface mining areas and extensive public hearings were conducted.

Last year the Committee on Interior and Insular Affairs met 23 times to consider this bill. I attended every meeting and I felt that most of the time was used in a constructive effort to develop a sound, reasonable bill to present to this House. This year additional hearings were held and amendments were debated by the full Interior Committee.

I congratulate my colleagues, Mrs. MINK and Mr. UDALL, in their diligence, perseverance, and leadership in carrying this legislation to its present stage.

I agree with the objectives of the bill: maintaining our essential stewardship to the land—to leave for future generations a resource base that has at least the same range of uses and potential as the land we inherited. The devastation of large areas of our landscape from past practices of surface coal mining is unconscionable. It has left behind a legacy which has stained both the land and its people.

I agree with the underlying principles in H.R. 25—

That the role of Federal legislation is one of providing a minimum standard of general guidelines to assure a common denominator among the States;

That the principal lead in regulating surface mining activities is to be vested with the States since most regulatory decisions can be made best at State and local levels.

In the next few days we will have the opportunity to review again some major decisions which have gone into this legislation. In this review we must assure ourselves that the approach reached during the last Congress will achieve the objective of proper stewardship to the land and its people—

Without imposing untenable costs of transition in mining practices on society, costs which might be greater than the benefits gained in the interim transition period; and

Without worsening the national economy, nor increasing the burden of unemployment, inflation, and triggering unnecessary increases in energy costs.

In the committee I voted for many amendments, designed to make the bill less objectionable to businesses, industries, and people in need of coal. I tried to help find some reasonable compromises providing for the restoration of mined-over land to productive use in an environmentally sound manner without contributing unnecessarily to the further inflation of coal prices or to the energy shortage. Ours is the difficult job of finding a proper balance between protecting the environment and meeting the energy needs of our people.

I am ready, once again, to listen and participate in the debate over the several features of this legislation—not to defeat the bill or frustrate its purpose—but to assess independently the balance which has been struck and determine if it can be improved by some additional amendments on the floor.

I supported this legislation throughout the last Congress—and I anticipate that I will be able to vote again for its final passage. The time for final action on this legislation has come; its need is clear.

Great growth is expected in the coal industry during the next decade and it is important that this legislation be passed without delay so that the industry will know what guidelines and regulations will be required in the future.

Mr. Chairman, I urge this body to face this important national issue, to debate it—to modify it if it wishes—and finally, to approve a sound course of action. That much we owe to the people, to this generation, and to the generations that will follow.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Chairman, I do not think that the debate segment of our proceedings today would be complete without an appearance on my part.

First of all, I would like to compliment the leadership of the committee for the second Congress in a row in bringing before the House this bill. I would also like to associate myself with the remarks made by the chairman of the Subcommittee on National Parks, the gentleman from North Carolina (Mr. TAYLOR), who just spoke to the Members, and who is an outstanding and excellent leader of this body, and who has displayed resourcefulness in the preservation of our national lands so that other generations may enjoy our natural resources and still permit surface mining adjoining our forests and parks, but not within the foundations of either.

This all began for me in January 1971, with the chairman of the subcommittee, the gentleman from Oklahoma (Mr. EDMONDSON), with a bill which was mild in all sections compared to what we will be enacting here today. The worst requirement from the company standpoint was the fact that any slope 20 degrees or more should not be mined. We have since modified that provision so that in this legislation slopes 20 degrees or more can be mined if there is no dumping overburdening of the downslope.

In the preceding Congress that just concluded perhaps a year and a half of constant committee work went into S. 425; leadership and sustained devotion by the gentleman from Arizona (Mr. UDALL) and the gentlewoman from Hawaii (Mrs. MINK) gave us a good bill.

All the confusion and distortion and obfuscation that can be foisted upon the parliamentary process with or without Robert's Rules of Order were put upon this committee by certain sundry friends of mine in the other party, and some here and some gone. I have seen no precedent to equal these delaying tactics in my 30 years of familiarity with House proceedings.

Here we are again. This bill is a good bill. It lets coal companies live. It preserves the land. It requires reclamation. It is the result of the patience of hundreds of lawmakers in both Houses of Congress over many, many months. I commend Members of good will who strive to accomplish a reasonable piece of legislation.

I was asked by the members of the Missouri delegation last fall, specifically Mr. ICHORD and his colleagues, "Why do we need a Federal stripmining bill when all the States have a good stripmining bill?"

The reason we need it in Wyoming is it just happens that 55 percent of the surface of Wyoming is federally owned, and some 75 or 80 percent of the coal deposits that are stripable in Wyoming happen to lie under both Federal surface and non-Federal surface, so that if we are to have jurisdiction to mine the coal we need, we must have Federal legislation to blend with the State law in bringing out the best possible procedures for surface mining.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Wyoming, who so ably represents a beautiful State, where I visited not so long ago. I commend him for his efforts in connection with this legislation. The gentleman from Wyoming made a very interesting suggestion recently on the floor that there should be a ratio between the underground and stripmining which any company undertakes. I would like to express interest in and support of that concept. As we are escalating the amount of stripmining to over 50 percent, if we continue to escalate at this rate, the amount of strippable coal reserves will be exhausted before the end of the century; am I not correct?

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. I yield 2 additional minutes to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

Let me say to my good friend, the gentleman from West Virginia, whose opinions I respect and whose vote I regret very much I cannot seem to entice for this legislation, that I would like to amend many segments of this bill, but we have now been three years trying to get an act. I am convinced we must now put an act on the statute books. Then let us be about the business of amending over the next year or two, and making the modifications and the adjustments that are necessary.

Then I would very much like to see every company mining coal in Wyoming be required to deep mine 10,000 tons for every 1,000,000 tons they strip mine.

Mr. HECHLER of West Virginia. If the gentleman will yield, I would certainly accept one ton of stripmined coal for 1 million tons of underground coal.

Mr. RONCALIO. That is the usual spirit of compromise that the gentleman from West Virginia gives to this business of surface mining coal.

I would also much rather go back to the original amendment offered by the gentleman from Montana (Mr. MELCHER) but let us enact what we have now, so that we can enact a law and that we know can survive a veto. I would like to see some other adjustments made, but I am willing to go along with a bill that makes me reasonably unhappy.

There are others reasonably unhappy without a good law.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I want to say the gentleman in the well has been under enormous pressure these last 3 years on this legislation. His State is in the middle of being asked by the other States of this Nation to supply great quantities of energy. I know the terrible kinds of pressure he has been under, and he has kept the faith. He has been courageous and intelligent and tried to strike a balance between the protection of the land he loves and the needs of the country. I think he well deserves our commendation.

Mr. RONCALIO. Mr. Chairman, let me say to the excellent chairman of the committee that flattery will get him everywhere, but we do not have any Presidential vote yet.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. LEHMAN).

(Mr. LEHMAN asked and was given permission to revise and extend his remarks.)

Mr. LEHMAN. Mr. Chairman, I thank the gentleman for yielding, and I commend the gentleman from Arizona for bringing this bill to the floor.

In Dade County, Fla., we do not have a great deal of coal but we have a serious safe water problem which the gentleman from Arizona knows because he has visited our area. In this bill there is a provision for the study of the effects of strip mining. Though we mine no coal we do have phosphates, rock and other raw materials in south and central Florida. So, I would like to put the question to the gentleman from Arizona as to whether this study would include the effects of open pit mining for rock phosphate and various minerals in south and central Florida, and the effect of this kind of open pit mining on the aquifer that supplies water to the metropolitan areas of south Florida, water which is so essential to our growth and well-being.

I might bring to the attention of the gentleman the statement of Russell Train, former Chairman of the Council on Environmental Quality on the additional potential damages of strip mining.

An additional damage can occur from strip mining—devastated wildlife habitat, landslides, silt and acid choked streams and a blighted landscape. In particularly rich farmland, area strip mining can adversely effect

future fertility as it can the opportunities for revegetation.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I am keenly aware of the problems in Florida and I would like to say this bill will cover the kinds of problems the gentleman has in his area. I hope out of that study will come to some means to deal with those problems.

Mr. LEHMAN. I thank the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I yield 3 minutes to the objecting gentleman from California (Mr. KETCHUM).

(Mr. KETCHUM asked and was given permission to revise and extend his remarks.)

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, here we are again, not quite a year later, with the same packed House. Somebody would probably tell the Members that is because this is Friday, but let me tell the Members that we debated this bill for 6 days last year and the attendance was about as good, which really indicates how important this bill is.

We are going to hear during the course of the debate how the coal companies simply cannot operate until we get this bill passed because they are confused and they do not know what they can do. I have been listening to that argument for almost 2½ years on this legislation, and if one is to believe that great metropolitan daily, the Washington Post, and if one read the editorial in this morning's paper, one would see it said there was something in the nature of 1,000 acres a day being mined—and this without Federal legislation—so I do not think they are as confused as some would have us believe.

We are going to be told that this bill really is not going to cost anything and that it is going to double the production of coal. I am telling the Members that nothing could be further from the truth because there is not any Federal legislation we pass that does not have a price tag and this one has a "biggie." It is going to increase the price of coal to our consumers. We are all hearing from our constituents right now about the high cost of electricity. Well, "You ain't heard nothing yet."

The cost to the consumers is going to be considerable, and that by the way is why the Governors of a couple of the States that have strip mining legislation in their States today are backing this bill to the hilt. The legislation has increased the price of their coal to such an extent that it is no longer competitive with the other States. That is why the Governors want the bill.

This bill is going to create unemployment, and we heard much testimony along these lines. The Members will find that feature has been removed from the bill this year, but it was put in there originally because we know it is going to create unemployment, and the Members will find it in the Senate version of the bill if my information is correct.

Now, as to my good friend, the gentleman from West Virginia (Mr. HECHLER'S) comments here in the debate when he was complaining about the fact that we had 3 days of "hearings," I would remind the Members of this body that we have something in the neighborhood of 90 or 91 new Members of Congress this year; about half of the members of the Committee on Interior and Insular Affairs are new to the committee. Those of us that were new to the committee last year listened to this bill in the subcommittee for almost a year and debated the various provisions back and forth, so that we were thoroughly familiar with the contents of this bill. That simply is not true today.

The Members of this House, none of the Members, particularly the newer members of the Committee on Interior and Insular Affairs are aware that they could not possibly read all the committee reports that would probably fill this well to find out what we found out.

Now, bear in mind that we do have the responsibility for the regulation of mining on Federal lands. That is our job.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RUPPE. Mr. Chairman, I yield the gentleman from California 2 additional minutes.

Mr. KETCHUM. Mr. Chairman, that is our job, and let me tell this body that the Secretary of the Interior has already promulgated regulations and when I asked him in committee why must we have this bill, he said:

I don't know. Maybe my promulgating of these regulations is unconstitutional.

Well, I think he clearly has the responsibility and authority to do just that.

We pass law after law around here and then we spend the next 2 or 3 or 5 or 10 years undoing the damage we have done. Let me give one classic example of what I am talking about. About 6 years ago, we spent, and I am sure this House spent, I know I did in a State legislative body, spent an entire year arguing about the merits of removing lead from gasoline, because we were going to have this great new catalytic converter that was going to take all these noxious things out of the atmosphere. During that year of debate we brought to the people and told them that the catalytic converter would spew forth sulfuric acid fumes. Nevertheless, we have the catalytic converter at a cost, I am told, of billions of dollars to our constituents and to the taxpayers that are footing the bill for all this phoney baloney.

Now, the EPA has just recently announced that, lo and behold, that the catalytic converter spews forth sulfuric acid. Therefore, we had better change our thinking on the catalytic converter.

Well, that is what we are doing with this bill. That is what we are doing to the consumer and we are going to answer for it. I am very proud of the position I took on this bill this year and last year, and if the good Lord is willing and the creek does not rise, I will take it again.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the gentleman from California made a rather sweeping statement about the supposed effect of this bill on the price of coal to the consumer.

I invite everybody to turn to pages 72, 73, and 74 of the committee report. Starting on page 72 is a very interesting chart which shows that before 1967 the coal price was fairly stable. Since then the spot price of coal has shot up until by the end of 1974 it was three times what it was in 1967. During that period of time wages went up 50 percent and production hardly went up at all.

Now, if we turn to page 73 and the report that is quoted there in the first paragraph we read:

A review of the available data on profits of coal companies and coal operating companies reveal tremendous increases in profits. Thus, price increases have been translated into profits. The fact that the price of coal is likely to remain unrelated to the cost of production is further supported in the Coal Supply Potential Task Group Report, prepared by the Federal Energy Administration. This report states that at least for the near term, (1975–1978) the ". . . equilibrium price of coal may be set by competitive forces of competing fuels and most particularly oil, rather than by the cost of production and normal competition within the coal industry."

It therefore appears that the ability of the industry to absorb any increased costs of reclamation consistent with the standards of the Act is no longer in doubt.

If anyone still have any doubt, turn to the next page and look at the price of coal, as shown in table 14, versus other hydrocarbon energy resources and compare the maximum reclamation cost per ton of coal as shown in table 14 with the most recent prices shown in table 15.

Now hopefully we have competition in the coal industry, a competitive structure, although there is some doubt that we do. But assuming we do, then the marketplace is going to determine the price of coal to the consumer and not whether we add a few cents per ton by requiring coal companies to restore the land.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. RUPPE. Mr. Chairman, I think we have to understand we should not throw a lot of cost inputs into this legislation simply because the present price of coal can support those energy costs.

It seems to me what we ought to be doing here is to be looking toward the day when prices of coal will come down. The price of coal is far too high. It is not necessarily too high because of the policies of the coal companies. It is, partially, high priced today because of the past policies of this Government.

For years, we encouraged industries and utilities to get out of the utilization of coal. We said that coal is a bad energy source. We did everything at the time in this country to discourage the production and consumption of coal. The fact that there is a high price attached to coal

today is largely because of the Federal Government failing to realize we would face a Near Eastern energy or oil shortage and failing to realize what an important place and role coal had in the energy development of this country.

Mr. SEIBERLING. I agree with the gentleman that we do not want to add unnecessarily to the cost of coal. I think the gentleman agrees with me that this bill does not add unnecessarily to the cost of coal. But I would also like to point out that there are some people—and the study cited in our report makes the point—who say that it is not the Government and it is not the Federal clean air standards that have raised the cost of coal. The fantastic increase in coal prices appears to result from a lack of effective competition in the coal industry itself, for if the coal industry were fully competitive, then as the price went up, production would go up, and yet we all know production has remained practically the same.

Secretary Morton, when he testified at the hearing before the committee 2 weeks ago, said that the production was not limited but that the demand was limited, and if the demand is limited and the industry was capable of producing more than the demand, the prices should not have gone up as they did if the coal industry were a competitive industry.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. On that point, Secretary Morton said the industry was capable right now, had the capacity right now, of producing in the area of 60 million tons of coal additionally, without putting on new capacity or additional opening up of new mines.

Mr. SEIBERLING. Secretary Morton said one other thing. He said this bill will not reduce employment in the coal industry; it will increase employment. Look at the record.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Yes; I yield to the gentleman.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding. The gentleman and I sit on the same subcommittee, and we listened to the same witnesses, and the gentleman know that is not a fact.

Mr. SEIBERLING. I ask the distinguished chairman of the subcommittee, did not Secretary Morton say that? Were those not his exact words?

Mr. UDALL. That was my clear understanding.

Mr. SEIBERLING. I challenge the gentleman from California to look at the record.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from West Virginia (Mr. HECHLER).

Mr. UDALL. Mr. Chairman, I yield another 10 minutes to the distinguished patriot, the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I have a "Udall for President" button in my pocket. I do not know whether I should, after that comment, put it on or not.

Mr. UDALL. Mr. Chairman, if the gentleman will yield briefly, I would hope we would have a nonpolitical debate.

Mr. HECHLER of West Virginia. Mr. Chairman, I appreciate the time that I have received from both sides.

Mr. Chairman, H.R. 25 is really an LCD bill. It is really a "lowest common denominator" bill, and it is the product of a lot of pressures by very powerful interests.

The gentlewoman from Hawaii (Mrs. MINK) indicated that she and the members of her subcommittee and the members of the full committee had decided not to have "prolonged" hearings. No Member of this House desired prolonged hearings. I very much appreciate the tremendous contribution which was made by all members of this committee, and particularly the gentlewoman from Hawaii (Mrs. MINK). Time after time, on issue after issue, she stood up and she fought for the rights of the people and for the protection of the land, both in committee and during many extended meetings of the conference.

In this Congress she has always been on the right side on every issue, the side of human beings.

Mr. Chairman, it was a very moving experience for me some 10 years ago in my home town of Huntington, W. Va., when Representative MINK came down to give the graduation address at the Women's Job Corps. She established an immediate rapport with those young women by describing her own efforts in the State of Hawaii, coming from a large family, to get an education, to struggle at the University of Chicago for a law degree, and to be elected to the high honor of membership in the House of Representatives.

It is for this reason that I found it especially puzzling that she and other members of the committee have cut us off in terms of testimony.

Mr. Chairman, strip mining is a ripoff. It is a ripoff of people whose water supplies are polluted, whose property is degraded, and whose very lives are threatened by the blasting of boulders, and by floods and erosion.

Day before yesterday five very wonderful people from a strip mined area in West Virginia visited me: Mrs. Chester Workman, from Abraham, W. Va., the wife of a deep miner; Clifford Plumley, and his son, Bobby Plumley, who live in the Richmond district of Raleigh County, W. Va., and whose families have lived in that self-same area since the Revolutionary War; Miss Kittye Cornette, a student at Park Junior High School in Beckley, W. Va., who was so incensed at what was happening to the land and water supplies that she went out and got several hundred students at the junior high school to submit a petition to the Congress to try and stop the devastation of strip mining; and Mrs. Eleanor Bennett, who lives in an area where they are starting to strip mine around her home.

In essence, their visit is the story of what is wrong with the way this legislation has been developed. These fine people got up at 2 a.m. day before yesterday to drive all night here in order to tell their story and to hope at least that someone in Congress would listen or somebody would listen to them.

They came here to tell personally of the irreparable damage that results when the laws of Sir Isaac Newton take over on these steep slopes and the soil and the spoil cascades down the hillsides into the streams.

Yet when I asked them if they could please stay another day because we are going to take this legislation up today, Mrs. Workman indicated she had to get back to take care of her sheep.

Mr. Chairman, contrast these five people with the people who can come here every day, many of whom represent some of the most powerful interests in this Nation. They are representatives of organizations which have around-the-clock lobbyists here at the Capitol, organizations which can afford to keep people here day after day and night after night seeking to drive loopholes into this legislation, trying to assure that this legislation enables them to keep on with the same ripoff, which we call strip mining.

Mr. Chairman, the gentleman from Montana (Mr. MELCHER) started off his remarks by saying, "There is a time to sow, and there is a time to reap."

I would ask him if he did not mean to spell that word "r-a-p-e" instead of "r-e-a-p."

Mr. Chairman, the legislation that we have before us is the product of compromise. Sure, compromise is the essence of the legislative process. Maybe I just cannot get used to compromise when the very way of life, the property, the homes, and welfare of the people in my area who are affected by this legislation are involved.

I asked the Library of Congress recently to give me a list of the leading congressional districts in the Nation, ranked according to how many coal miners they have and how much tonnage of coal they mine. The Fourth Congressional District of West Virginia, which I have the honor to represent, came out on top of the list in terms of number of miners, amount of coal mined underground, and is one of the top three congressional districts in deep and strip coal production.

A lot of people asked me, including Representatives serving their first term here in Congress, how can I represent a district that has so much strip mining, so much deep mining, and more miners than any other district and take the position that I take against strip mining.

A telephone call came in to the office of one Congressman warning that Congressman not to introduce a particular strenthening amendment because that Congressman might be in trouble back home and not be reelected if that amendment were sponsored.

Mr. Chairman, I would just like to present a few facts and figures here to my fellow Members, all of whom practice politics. In 1972, after the reapportionment when West Virginia lost one seat, the State legislature, where the coal interests of West Virginia are prominent, decided that they wanted to get rid of

me. Therefore, they redistricted me in with another Congressman, a fellow Democrat, against whom I had to run in the primary. There was one clear-cut issue in that primary: I was for abolishing strip mining; he was in favor of strip mining. In any event, the vote came out 2 to 1—50,872 to 25,004—and I am still here.

In that same election I ran for delegate to the national convention. I was the first Congressman in this Nation to come out and urge the nomination of GEORGE MCGOVERN for President. I say that because I want my fellow Members to understand that GEORGE MCGOVERN did not do well in 1972 in West Virginia. Nevertheless, he is doing better and better as the days go on. In that election for delegate to the national convention, I urged a plank in the national platform to abolish strip mining. Another colleague from the House of Representatives from West Virginia also ran and he took a position in favor of strip mining.

My vote was 107,542, his vote was 78,885. We were both elected, but nevertheless it shows the reaction. By the way, he was not for Senator MCGOVERN for President, which some people say may have not hurt the size of his own vote.

I would like to point out also to any Members who are afraid of taking a strong position on strip mining that we had a vote on the 18th of July 1974, on an amendment that I offered to abolish strip mining. Sixty-nine Members voted for that amendment. Sixty-four of them are still here in the House. Ninety-three percent of them are still here. On the other hand, of all of those 365 who voted against that amendment or did not vote, only 73 percent are still here.

Therefore, if the Members want to measure the politics of this and if they are afraid to take that position, they need not be afraid.

I would say also that all those who are going to be running for President in 1976 in the primary in West Virginia can be assured that I can furnish them an example of one who ran in 1972 and came out first in the State on a platform of abolition of strip mining.

Mr. Chairman, I would gladly yield to any candidate for President who would care to comment.

Mr. UDALL. Mr Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Arizona.

Mr. UDALL. Did the gentleman indicate that the candidate he supported in West Virginia and who was later nominated was beaten by a larger margin than any candidate for President was ever beaten by in the history of the United States?

Mr. HECHLER of West Virginia. Mr. Chairman, I would observe to the gentleman from Arizona that if that candidate ran today with the knowledge of what has happened since 1972 his plus margin would be overwhelming. I would also remind the gentleman from Arizona if he could listen to the tapes of some of the speeches GEORGE MCGOVERN made in 1972 he would see that they come out pretty darn good in 1975. That differs from some other tapes.

Mr. UDALL. I agree with the gentleman from West Virginia. I supported GEORGE MCGOVERN in November of 1972. In a like vein I would suggest, in light of the outcome of GEORGE MCGOVERN's campaign, that maybe the gentleman from West Virginia would want to attack me this time rather than support me, although I welcome the gentleman's support.

Mr. HECHLER of West Virginia. I thank the gentleman from Arizona for his well-reasoned contribution to this debate.

There will be a number of opportunities that we will have during the 5-minute rule to amend this legislation. The most important one of those amendments, of course, is the Spellman amendment to the 20-degree slope. Then there is another very important amendment which will be offered by the gentleman from Michigan (Mr. DINGELL) which will transfer jurisdiction from the Department of the Interior to the Environmental Protection Agency.

The General Accounting Office in a study which was made in 1972 pointed out in a devastating fashion the way the Department of the Interior had failed to enforce its own strip-mining regulations by the Bureau of Land Management on Federal land and by the Bureau of Indian Affairs on Indian lands.

The Department of the Interior is not in favor of this legislation, either. They were up here 2 weeks ago testifying in support of changes to the legislation.

One of the real basic defects in this legislation which I do not think even an amendment could cure is that it is based upon the principle of control by the States.

I would also like to commend the gentlewoman from Hawaii (Mrs. MINK) who took the lead in trying to insure that Federal control would be retained in this legislation rather than State control. I would ask any of the Members who have studied the history of this Nation to consider the history of legislation that has marked the progress of our Nation. Take, for example, civil rights. Many Members of our body would like to see civil rights protected by the States, but I think the overwhelming majority of the Members of this body and the people of this Nation understand and appreciate that these basic human rights need Federal protection. There are basic human rights and economic rights that are being imposed upon and denied by strip mining that need Federal protection.

It is said, of course, that the situation is different in every State. Coal mining is different; take the mining of lignite in North Dakota, as our friend, the gentleman from North Dakota (Mr. ANDREWS) pointed out in his remarks. Western coal is different, there is the difference in the soil and the difference in the rainfall.

Why not have each State make its own regulations? The same cry came up when we considered the Federal coal mine health and safety legislation. The history of this country in its development has been that every industry that is regulated in behalf of the public interests, first demands State regulation, because it knows that it can control the State legislatures, and the administration of the State easier than the Federal Government.

Why, this legislation that you are offering here in H.R. 25, this LCD—Lowest Common Denominator—bill, is not even as strong as the State laws in Montana, Ohio, and Pennsylvania.

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. Mr. Chairman, I yield 2 additional minutes to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman for yielding me this additional time.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I just want to say to my friend, the gentleman from West Virginia, that we have had differences on how far to go in this area, but I have never had any doubt of the very deep conviction of the gentleman from West Virginia and his love for the land. I have been in his State, and I have seen what the old practices have done. I want to say to him that he has provided a rallying point for literally millions of citizens in America who are deeply concerned about the ravages that have occurred. I want to compliment him on the tenacious fight. The bill we have today before us is a much tougher bill than it would have been without the efforts of the gentleman from West Virginia.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I would like to express the same sentiments as those expressed by the gentleman from Arizona on the tremendous contribution the gentleman from West Virginia has made to making the Nation aware of the terrible ravages of strip mining and the necessity for doing something drastic about it.

As the gentleman knows, I share his views that the ideal solution would be to phase out strip mining. If I had my "druthers," that is what I would do. One of the reasons I would do it is because I have no faith that regulatory agencies can remain independent enough, particularly at a State level, not to end up being captured by the very industry that they are supposed to regulate. As a matter of fact, that has happened in the State of Ohio. The State agency is not going to do the job of enforcement because the industry has packed it with its supporters.

One of the reasons we need this bill is to try to have someone else keep an eye on the State agencies to make sure they are doing their job. I am willing to give it a try, because reclamation is possible. The question is whether it will be done and done right. I think that we have done about the best possible job of writing law at least to see that it will be done.

Whether it is implemented remains to be seen.

Mr. HECHLER of West Virginia. I thank the gentleman from Ohio, who has done a magnificent job on the committee in educating this country on this issue.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

I, of course, do not share his great enthusiasm for regulatory agencies at the Federal level. I would commend to him for his thought the great job the ICC has done with the Penn Central.

Mr. HECHLER of West Virginia. I thank the gentleman. I would point out that in the field of food and drug legislation, certainly no one here wants to turn back entirely to the States. Certainly the fight for fair labor standards legislation, which started at the State level and subsequently was taken up by the Federal Government——

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. I yield 1 additional minute to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

Before this packed House, will not the Members allow me to make my peroration?

Mr. Chairman, the issue we face today is whether the Congress of the United States has the right to condemn one area of the Nation to be exploited for the private profit and advantage of the other areas. Throughout the Appalachian Mountains instant millionaires are being made over night in the strip mining industry. Over two-thirds of our land surface in many counties is owned by out-of-State corporations, and the people of this area are being treated as subjects in a colonial empire while the wealth of the land is rapidly being siphoned off.

Mr. Chairman, the Appalachian area refuses to be a national sacrifice area. I ask my colleagues on this committee to vote to strengthen this bill, because if this bill is not strengthened, I plan to vote against this bill. Do not Appalachianize the rest of the Nation. I hope those of my colleagues who have not had the opportunity to learn what is happening in West Virginia and throughout the areas which are being strip mined can come down and see for themselves what the effect is on the people, their water supply, their land, and their soil.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUPPE. Mr. Chairman, I yield so much time as he desires to my distinguished colleague, the gentleman from Arizona (Mr. STEIGER).

(Mr. STEIGER of Arizona asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Arizona. Mr. Chairman, for the few hardy souls who have not yet had a chance to speak, I take up their time now because I feel this record must reflect at least one or two notes of sanity amidst all the frivolity and gaiety that we have endured here this afternoon.

We have heard the self-congratulations of the experts. We have heard the self-congratulatory experts on this bill who have labored long and hard, and as they indicated, they are going to load the record up. Somebody somewhere ought to point out that the king has no clothes. Not only is this piece of legislation not necessary, not only is it counter-productive, but also it has been mauled over and massaged by people with absolutely no practical idea not only of the rudiments of coal mining but also now clearly without any recognition of their constituencies' concern about the rising cost of living currently best epitomized by their utility bill.

And now: "Ralph Nader, where are you when we need you?" While Mr. Nader's constituency roams the streets desperately looking for an issue, here lies one begging to be picked up and nurtured.

This bill is going to add up to an estimated 15 percent to every utility bill in the country. It will do that even in New Jersey, where I understand they only use coal oil and much of that because of the high cost of their utility bills. Yet we have Members, responsible Members of Congress prattling about saving the Earth's surface. We heard the gentlewoman from Hawaii make the most remarkable statement I believe I ever heard her make on this floor, and I have heard some dandies. She said and I quote:

> The American public is crying out to bear the costs of curing the surface mining cancer.

She did not say it that well, but she said that kind of thing.

Now the fact is she and I and all of us know that the American public is crying out, yea, crying out but not to bear any more cost of anything. And what we are doing here is imposing an arbitrary cost on the American public the extent of which we do not know. We just know that it is going to cost them more.

The proponents of the bill tell us this is not going to result in reduced production of coal, that it is going to increase coal production, yea, double it. Is this so?

Well, it is done by a little tortured reasoning, but really there are many people waiting with these plans and many are ready to leap into the production gap as soon as we resolve the uncertainty. There is an alternative, a simple straightforward alternative, which of course is not in keeping with the mood of the House, but it is simple and straightforward. If we kill this bill we also remove the uncretainty and allow these people to go forward under the existing State laws, not one of which has been proven to be unsound.

Yes, the people in the various States are crying out, and we hear the gentleman who has claimed to be an expert and he claims he was the first to endorse GEORGE MCGOVERN—which is a great recommendation, I agree—and then he tells us that his people are crying out, and he tells us that he was elected over some fellow who was not crying out.

Mr. Chairman, I see the gentleman on his feet but I am sorry, I will not let the gentleman respond to my biting bark.

Only because of my basic venality do I deny the gentleman the opportunity to respond. The record may reflect, however, that my friend, the gentleman from West Virginia (Mr. HECHLER) tried to respond and I refused to let him.

I would like to point out that we have not had one single empirical bit of evidence that the States are faulty in their administration or the implementation of their laws, not one. We have had lots of testimony from people who are concerned in very broad terms about the destruction of the Earth, and if I have heard once, I have heard virtually every day that the committee met for a year and a half, that even as we sat here desperately locked in legislative combat, a thousand acres were being devoured by whatever monster was currently devouring a thousand acres.

The fact is that if we mined by reckless abandon, if we ignored all State laws, if we turned the monster machines loose and mined every bit of reserve coal that we can mine by surface mining, we would have destroyed and it would destroy eight-tenths of 1 percent of the surface of this land.

Now, I am not advocating the destruction of it, but I am telling this House that the equation that says if we do not pass this bill, the land will be destroyed, is a phoney equation.

Now, here is my empirical evidence for this, aside from my faulty gift of rhetoric. It lies within the bill itself, for within this bill itself is a section that exempts—yes, gentlemen, exempts—one area of this country from the obligations of this bill. It is known as the anthracite exemption, one that should bring a glow of pride to every member of the committee on this side of the aisle—and let the record reflect that the gentleman in the well pointed to the Democrat side—here is, indeed, a great and visionary stroke of legislative construction. Backed by a staff and cast of thousands, we rushed into print an exemption that said the great State of Pennsylvania will not have to bear the burden of anthracite legislation, because clearly, as everybody knows, that is much too great a burden to bear, and besides, the State laws in Pennsylvania are adequate to handle the situation.

Now, that is not what we said. What we said in the bill is that anthracite is exempt from any Federal regulations in this act which, of course, meant it was exempt from the act.

Why was it exempt from the act? I cannot tell you, but I am going to presume in a moment. I cannot tell exactly, because we did not have 1 minute's hearing, not even 30 seconds—would we believe 10 seconds? We never once discussed this in hearings. We never heard why, indeed, anthracite could not bear the onerous burden of Federal regulations. They are right, but neither can lignite, neither can bituminous coal. In fact, no section of the coal industry can bear the onerous burden of Federal regulation. Why is it that anthracite is so blessed?

Today in the mail I learned why and I am happy to share it with all of us on the record. I got a letter from at least if not the best informed, the best dressed Member of the House, the gentleman from Pennsylvania (Mr. DAN FLOOD). The gentleman from Pennsylvania (Mr. DAN FLOOD) tells us in this letter, and we do not have to pay too close attention, because I know we all have gotten this letter and we have all read it. Several of us have made notes and I suspect by what the gentleman from Pennsylvania (Mr. DAN FLOOD) explains, the fact is that nearly 45 percent of the people in his district use coal to heat their homes, this particular coal that is mined there. Therefore, of course, they should not be required to comply with this ridiculous law, and the gentleman is right, they should not be.

Of course, the fact that 67 percent of the coal mined in this country is used by electric utilities to furnish us our electricity, that is all right for them to be burdened, but not in "good old DAN'S" district.

He says:

Vital to the continued production of anthracite—

And I am sorry the gentleman from Pennsylvania (Mr. FLOOD) is not here, but I am sure we will hear from the gentleman on Monday, because this amendment will be up on Monday, I know, because I am going to offer it—

Vital to the continued production of anthracite is the section of H.R. 25 which recognizes the unique—

And hear this—

geographical and geographic differences between bituminous and anthracite coal.

I will explain now what this unique difference is.

Anthracite, as the gentleman from Pennsylvania (Mr. DAN FLOOD)—and the rest of us just have to get along without it, because absent the gentleman from Pennsylvania (Mr. DAN FLOOD), if we all had the skill and cunning of the gentleman from Pennsylvania (Mr. DAN FLOOD) and the backing of the United Mine Workers and the skullduggery of Bethlehem Steel, then there would be no coal in this bill, because if this bill is too onerous for anthracite, it is too onerous for any other type of surface mined coal, and it is.

Now, the historical facts, and how this anthracite amendment got in absent any hearings, it appeared full blown one day and we were told that it is all right, because the Pennsylvania delegation wants it. Well, that is a simple reason. They are a cohesive organization.

It was adopted in the conference report; and, lo and behold, not 3 days later Bethlehem Steel acquired three properties in Pennsylvania that, between them, produced some 600,000 tons of anthracite a year. They were known as the Greenwood properties.

Clearly, it would be patently unfair to say that the timing and acceptance by the conference committee of the anthracite exemptions and the timing of the Bethlehem purchase was anything but coincidental.

However, I am a person not famous for his kindness, so I will tell the Members that, in my view, the one had a direct bearing on the other, and I suspect—I do not know this, but I suspect—that, upon analysis, if the Federal regulations in this bill were to be imposed on the anthracite mining, that it would not have a profitable property.

Therefore, Bethlehem Steel, it was perfectly appropriate for them that they would not consummate the purchase until this amendment had been accepted by the conference committee. Then, what did Bethlehem Steel do—that giant of free enterprise?

They were the only industry, that I know of, that went to the President of the United States and said, "Don't veto this wonderful bill, because while it may be onerous for the rest of the country, it is not bad for Bethlehem." As everybody knows, what is good for Bethlehem Steel has to be good for the country, at least the part of the country from which the gentleman from Pennsylvania (Mr. FLOOD) comes. That you can count on.

I want to tell my friends why this bill is onerous—and it is onerous. We are creating a bureaucracy in the Department of the Interior that we need like we need another navel. We create legions of inspectors, application forms and quantity orders. We are told by the coal industry that this will cost 140 million tons a year in production. We do not know that. That is assuming that the citizens suits, which this bill now permits never functions, that nobody brings in litigation on production of an ongoing surface mine and that nobody decides they are going to delay by litigation a new surface mine.

I know my friend from Wyoming will be glad when this is all over, because the facts and his emotions kept colliding. Fortunately, he was able to resolve it by depending upon his emotions, and he was able to support the bill.

And my good friend from Arizona and my good friend from Hawaii—they may not view me kindly, but I have the greatest respect for them—I am convinced that they have conned themselves into believing that what the environmental activists and what the environmental extremists want must be done, because they do understand this bill. Of all the people in this room, the gentleman from Arizona (Mr. UDALL) and the gentlewoman from Hawaii (Mrs. MINK) do understand this bill. They have somehow been able to convince themselves that what they are doing is appropriate. I will tell the Members that, in this instance, they are simply wrong. What they are doing is not only disastrous, but it is only the beginning of the disaster.

That is what the gentleman from West Virginia desires, because, if we are going to be rational, it will result in banning strip mining in the rest of the country; that will come as a direct result of the passage of this bill.

If the citizens who are concerned about this throughout the country, the citizens who will file litigation without ever knowing anything about surface mining of coal, succeed in delaying significantly the production of coal and succeed in raising significantly the cost of electrical energy to the consumers, these people will be responsible for the outlawing of the surface mining of coal. If that is what they want, I say, "Let us do it head on."

That is why I respect the gentleman from West Virginia (Mr. HECHLER) more than I do the proponents of this bill. This bill is going to do it by slow death, not by the direct method which the gentleman from West Virginia prefers.

Mr. Chairman, I will point out to the Members that, with the track record of the Federal Government in any of the regulatory agencies, we ought to be tearing down regulatory agencies, not building new ones. It is absurd for this body, which understands the problems inherent in regulatory agencies, which knows the results of arbitrary regulations built in the law, to do what we have done in this bill.

We talk about a 20° slope. I have the greatest respect to the gentlewoman from Maryland (Mrs. SPELLMAN), but I will guarantee that she would not know a 20° slope if she fell downhill over it.

Mr. Chairman, perhaps I should apologize. I will admit that she would know a 20° slope if she fell down over it.

The point is, Mr. Chairman, we are writing into law arbitrary standards that we know nothing about. I plead with the Members to allow some sense of recognition of the facts of life.

Let us not be romanced by the overblooming and distorted view of the countryside being swallowed up by bulldozers. Let us recognize that the States have, indeed, confronted what was a problem.

I will stipulate at the outset that some of the States are not going to do a very good job, but I will insist and we must recognize that, based on our own experience, the Federal Government will do the poorest job of all. What it will do will be arbitrary and capricious, and what it will do will result in increased costs and unfair shutdowns.

Who agrees with me on this? The big coal companies? Sure, they do. However, I want my friend, the gentleman from Arizona (Mr. UDALL), to hear this, because perhaps he may be agreeing with me, on the outside chance that the gentleman's Presidential parade will founder somewhere between New Hampshire and wherever it is they assemble in July. Let me read this:

HONORABLE CONGRESSMAN: It would be appreciated if House Bill H.R. 25 would be referred to the Interior Committee for amendment.

Sincerely,

BERNARD E. YOUNG,
Business Manager, IBEW.

That is a Tucson local.

Mr. Chairman, I point that out for the benefit of my friend, the gentleman from Arizona, I say, on the unlikely chance that he might have to run for this demeaning job again.

I will also point out that the Phoenix Building & Construction Trades Council of the AFL–CIO is concerned, because they feel there are 3,000 jobs that are in jeopardy if this bill passes. That is not

an idle concern. I did not advise the gentleman of that, because we do not consult too regularly, I must confess.

The Central Arizona Labor Council, another friend of the folks, says that if this bill passes, the constituency, the workingman, will not only suffer by a lack of jobs but will suffer by an increased cost for his utilities.

Who is for this bill? In fairness, I want to read all of the wires I received. This is from Arnold Miller, president of the UMW. He devotes a whole paragraph of a very expensive wire, paid for by the eminent budget of the United Mine Workers, a very limited budget set aside for this purpose, to his statement in which he extolls the virtues of that section which exempts anthracite. I thought that was interesting. This is interesting, especially because anthracite is left out and my folks cannot afford to mine anthracite under this bill.

The fact is, Mr. Chairman, this is bad legislation. If we must have a simplified solution, I will offer the Members a simplistic solution as to what they can tell their environmentalist friends concerning why they voted against this bill. Members can say, "I voted against this bill because I did not want to raise the utility bills for you constituents by 15 percent at this point in time."

They will understand that. I suspect that even some of us can understand that.

With that, Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. BEVILL).

(Mr. BEVILL asked and was given permission to revise and extend his remarks.)

Mr. BEVILL. Mr. Chairman, the people of the State of Alabama have responded to the need to ease the national energy shortage by mining more coal. This fiscal year, Alabama surface miners—the group that accounts for 60 percent of the coal production in my State—plan to increase production 10 to 15 percent.

The need for 8 billion barrels of imported oil at a cost of nearly $100 million in foreign exchange will thus be prevented this year.

Unfortunately, this new production—and most of our existing production as well—would be quickly lost with the passage of H.R. 25.

According to a recent industry survey, the passage of H.R. 25 would lead to the loss of 12 million tons a year of coal production in the State of Alabama. Some $160 million would be lost to Alabama's economy, 27 currently planned mines would not open, and 86 mines would be closed. The direct losses of 2,400 jobs and $35 million a year payroll would be felt deeply throughout the mining regions of my State.

On a national basis, 49,980 jobs would vanish and as much as 141 million tons of annual production would be lost.

The direct losses that would flow from the enactment of H.R. 25 are by themselves a powerful argument against the bill's passage. Yet they are dwarfed by the indirect effects that will ripple through our economy.

As we are all well aware, the soaring cost of electricity is a vital concern to every citizen. Later this month, for example, the Alabama State Legislature will go into special session. The sole purpose of this session is to study ways to bring utility rates under control. Similar sessions will no doubt be held across the Nation.

In Alabama, as elsewhere, the impetus behind soaring utility rates comes from the rising cost of fuel, which unlike equipment or labor costs, is immediately passed through to the consumer.

In light of the fact that there now are homeowners across the Nation paying more for their utility bills than their mortgages because of the soaring cost of fuel, legislation that increases utility bills by 10 to 16 percent is unconscionable. And that, I suspect, will be the feature of H.R. 25 most widely felt and remembered by the Nation's electric rate-payers.

At this particular juncture, we cannot forget the impact this bill would have on our economy. Replacing the coal lost to H.R. 25 will require 1.7 million barrels of foreign oil a day at a cost of $2.75 billion a year. The total economic costs to the U.S. economy will be over $6 billion.

These are staggering numbers, but there is no way the human misery incurred due to the loss of a job or way of life can be reflected in statistical terms. And make no mistake about it, that is one of the chief effects the bill will have in the coal producing regions of Appalachia.

The bill's overly rigid strictures and enforcement procedures will lead to far higher expenses and administrative burden.

No doubt, large, well-financed producers will meet the act's requirements in large parts of the Nation. But smaller operators faced with the expense of legal and engineering costs that may well mount to more than $100,000 just to secure a permit will have little choice but to close down, leaving their market share to the larger producers. Something important to the functioning of our entire economic system will thus be lost.

The framers of this bill contend, and I quote:

> The overwhelming percentage of the nation's coal reserves can only be extracted by underground mining methods.

The Bureau of Mines says that slightly more than two-thirds of the Nation's reserve base is mineable by underground means and the remainder is mineable only by surface methods. But the reserve base is not the same thing as reserves—when you take into account the far higher recovery rate of surface mining as compared to underground mining you find that 40 percent of the Nation's coal reserves are mineable only by surface methods.

Not too long ago—when the Nation's economy was growing at a 7 or 8 percent rate, unemployment was down to 4 percent, and oil still cost $2.80 a barrel—we could afford to believe in the need for the universal deep mining of coal and other environmental fantasies. But that era is gone.

Certainly we can still afford to protect the land and the streams and the air, but only in a carefully conceived and executed manner. That is why I submit now that the era of rip-and-run mining is over and meaningful reclamation is required in every State where significant coal production takes place.

While I would insist on the protection of the environment, I do not feel that regulations such as returning the terrain to its approximate original contour is necessary to achieve this objective.

Better uses can often be made of the mined land, especially in Appalachia, where mountain surfaces are leveled off and thus suitable for uses such as forestry and grazing.

We do not need this bill in its present form, and it should not be made law.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Chairman, I want to congratulate my friend, the gentleman from Arizona (Mr. UDALL) again, as well as the gentlewoman from Hawaii (Mrs. MINK), for their very important work in getting this legislation before the House today. Also, I would like to congratulate my close friend and colleague, the gentleman from West Virginia (Mr. HECHLER) for his valiant efforts to strengthen this legislation.

Mr. Chairman, in my opinion this is one of the most important pieces of legislation to come before this body, to provide meaningful protection for our natural resources without causing the tremendous expense and delay in getting these necessary resources as the opposition has indicated might be the case.

I think we are going to witness over the course of the next couple of years a tremendous effort to just do away with all of our protective environmental measures in the name of solving the energy crisis or in the name of resolving the economic crisis, whether or not it is a fact that those energy and economic threats are really affected.

The facts are that there are far more coal resources and energy resources subject to deep mining and available from deep mining than there are from surface mining. I also understand there is more low-sulfur coal available from deep than from surface mining.

On the picture that was raised of having soaring utility bills as a result of this legislation through just seeing to it that the land is put back together and strip mining is not continued in places where it will cause tremendous damage to the environment, I think this is clearly false. I do not think we ought to be fooled by it. This is a situation where I think we can have our cake and eat it, too. We have the coal resources that are essential to keep us in business in this country and keep our economy going, the coal resources necessary to keep the electricity flowing and energy going, and

you do not have to rape the land in order to use it.

I think if the people who are so concerned about these costs would only join us in seeing to it that there was a little free enterprise restored to the energy business, if we could require the separation of the coal companies from the major oil companies and the gas companies, and if we could see the vertical and horizontal integration of the oil companies eliminated, we would get meaningful energy price decreases.

The evidence that has been presented and spoken to so ably by my friend, the gentleman from Ohio (Mr. SEIBERLING), indicates that the price differential of coal from deep mining, as opposed to strip mining, is accounted for almost entirely by the huge profits that are being piled up by the monopolistic oil companies that control the coal.

I hope the House will pass this legislation in the strongest form we can.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr BLOUIN).

(Mr. BLOUIN asked and was given permission to revise and extend his remarks.)

Mr. BLOUIN. Mr. Chairman, I would like very briefly to touch on a subject that I do not believe has been mentioned, at least, not to my ears, today.

I support this measure, as weak as I think it is, and in no sense primarily to maintain environmental quality, although I think that is terribly important, or primarily to put some sense into what I consider to be a stampede toward a partially created energy crisis, brought on by a huge, complicated international problem that we have yet to even begin to come to grips with, but primarily from a very self-centered viewpoint of trying to protect and preserve the agricultural productivity of this Nation.

I have heard a tremendous amount of concern expressed by many of the Members who today have opposed any kind of regulation in the area of strip mining, at different times this year and in past years, about the need to keep the cost of food down, about the need to be able to continue to feed ourselves and the world, and meet our requirements in that regard. Yet I have heard very little expression of concern for trying to protect the agricultural land that holds a very large amount, at least in acreage, of strip mineable land in this country.

I come from a State that has a tremendous amount of acreage filled with very shallow strip mineable type of coal reserves, and that has very little if any regulations surrounding it, and that has dozens of oil and coal companies and combinations thereof literally drooling over the thought of being able to paw through there without any conscious thought at all.

We need control very desparately, and we need it as quickly as we can get to it.

Realizing even the inadequacies of this legislation and the obvious loopholes that exist in the areas that I am concerned about, and at the same time realizing the efforts that we are going to make to try to fill those loopholes, I am, nonetheless, going to support this measure, and I intend to fight as hard as I can in the next couple of days to toughen it up and strengthen it.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Virginia (Mr. WAMPLER).

(Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

Mr. WAMPLER. Mr. Chairman, the bill we are considering today will do grievous harm to many of the good people I have the honor to serve in the Congress. Coal is the lifeblood of much of southwestern Virginia. Over 100 coal surface mining companies and suppliers operate in Virginia; 2,000 surface miners are employed; 5,000 to 7,500 workers are employed in related jobs; and $125 million circulates in Virginia's economy each year because of coal surface mining. In addition, much of the underground coal mining industry in Virginia exists only because its high-sulfur underground coal can be blended with Virginia's low-sulfur, surface-mined coal to meet stringent sulfur emission standards in our environmental laws.

Section 515, the section of this bill that concerns itself with "environmental protection performance standards" and specifically, section 515(d) thereof, the section that pertains to steep-slope surface coal mining in this bill, radically affects all coal surface mining and large amounts of the underground coal mining in the Commonwealth of Virginia. This occurs, Mr. Chairman, because section 515(d)(4) of this bill defines "steep slope" as any slope above 20 degrees.

This is the crux of this bill, Mr. Chairman, as far as the State of Virginia is concerned. The economic and social future of southwestern Virginia lies in this definition of "steep slope." Of the six counties which produce commercial quantities of surface-mined coal in Virginia, all of these counties have average surface-mine slopes of 20 degrees or more. Coal surface-mining operations range from approximately 20 degrees in Wise County to slightly over 29 degrees in Buchanan County. So in effect, Mr. Chairman, these steep-slope restrictions in this bill would essentially abolish the coal surface-mining industry in Virginia and bring economic chaos to an area of Virginia, in the heart of Appalachia, where the citizens for years have been fighting to exist. Coal mining has been their salvation, the lack of it will be poverty for far too many of these God-fearing, hard-working Americans.

These are the areas that I find faulty in this bill:

First, I feel that the term "steep slope" should be redefined as any slope above 30 degrees, not as the bill defines the term at 20 degrees. I think the implications of not redefining this term have already been spelled out. In this regard, I should think the bill as further modified would allow Virginians to continue the mining of our coal resources.

Second, I also feel that terracing should be permitted on slopes between 20 and 30 degrees and that in this area the land surface mined not be returned to its approximate original contour when the land owner plans to develop industrial, commercial—including commercial agricultural—residential, or public facility—including recreational facilities—development for post mining use of the affected land. It is important, Mr. Chairman, that we consider this terracing proposition, especially when this method of conservation, long practiced on steep slopes in China and other foreign countries, has increased the amount of land available for agricultural purposes. Also, it should be borne out that the average highwall in Virginia surface mining operations is 53 feet, whereas highway cuts have created highwalls as high as 260 feet in Virginia. I dare say that there are conditions far exceeding Virginia's average in many highway projects all across this land. The point I make, Mr. Chairman, is that we should not let these same experts who engineered the theories against the Alaska pipeline and sold us the catalytic converter, get us into another disastrous condition with respect to the coal situation. The stakes are just too high. We should be considering the best possible use of this land and not get ourselves hung up on the esthetics. The best possible use for this land is agricultural, either grazing or forestry, and anyone who insists on this original contour idea for slopes above 20 degrees has surely not ridden farm machinery across the face of a slope greater than 20 degrees. The fact is that if this bill would permit it, the mining and reclamation process could be a means of adding to our total acreage of tillable or grazing land and increase our food and fibre production. By insisting on a return to original contour instead of allowing more useful land forms, the bill is not only canceling this potential benefit, but it is probably also making the mining of coal impossible on these steep slopes where original contour makes it impossible to protect the land from erosion, siltation, slides, and water pollution.

Third, I also believe that as a process of reclaiming the land we should make allowances for surface water, from above the original cut to runoff without disturbing the backfill. The view is also advanced that the bill should be modified to allow a haul and/or access road on the disturbed lands in order to maintain vegetation and backfill stabilization.

Fourth, I am also of the opinion that this bill is too restrictive as to the disposition of the spoil in surface mining operations and believe that this language should be modified to allow permanent storage of the spoil below the cut, especially in terracing operations, if the operator can provide suitable safeguards to prevent slides, significant erosion, siltation damage, or other adverse environmental conditions.

Mr. Chairman, the above changes are necessary to prevent poverty in the surface mining industry of Virginia. They are necessary if Virginia's coal resources and its trained force of hard working miners are going to be used to provide cheap abundant energy for our industry and the consumers of America. At the appropriate time I shall put these

thoughts to this body as amendments, to make this bill workable.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I thank the chairman of the committee.

As the Members know, mining in the State of Colorado has a long history. Coal mining has been going on in that State for approximately 75 years. I find myself in an interesting situation with a long and somewhat ironic personal family history related to coal mining in Colorado, because my grandfather opened a number of coal mining camps in northwestern Colorado and southern Wyoming during the teens and the twenties. Most of these mines are now closed down, but the small towns are left and that area of the country, the region I come from, is sprinkled with a whole series of small and somewhat fragile communities which are now being severely threatened by the potential incursion of strip mining in that area of the country.

I am particularly concerned as we examine strip mining and as we examine the need for more and more coal and as we examine the potential for many coal gasification plants coming into that region of the country, that as we examine all the different possibilities we also keep in mind not only the significant environmental problems which can be caused in that area, but also the social impact that strip mining and coal gasification plants may have in the area; I am particularly concerned about the effect that many people coming into the region may have on those communities.

I am concerned, as we examine the bill brought in by the gentleman from Arizona (Mr. UDALL), and that we take into account the social fabric and social impact of strip mining in that area.

I would hope that as we consider this bill we could take into account, for example, what happens to those small towns when large highways are going through, when the trucks are splitting up that town, what it does to the fabric of those communities.

I would hope that as we consider this bill, we keep in mind what happens to the school systems, the health systems and the total fabric of these communities. I believe we must keep that in mind and I will do so during the process of this debate.

Mr. UDALL. Mr. Chairman, I have no further requests for time.

Mr. RUPPE. Mr. Chairman, I would like to yield myself 1 minute and ask the gentleman from Arizona if in this legislation there is any question as to whether State law at any time takes precedence over Federal law, as far as Federal land is concerned in the various States.

Mr. UDALL. Mr. Chairman, it is my understanding and my interpretation of the bill that if Federal lands are to be taken out of production and set aside for strip mining, this would be under the designation section by the Federal Government under its own program and we would not delegate to the States the rights to make these determinations on Federal land.

Mr. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, if I could have the attention of the gentleman from Arizona (Mr. UDALL), in response to a question by the gentleman from Florida, it is my understanding it was indicated the reclamation features of this bill would extend beyond coal mining activities; is that the response of the gentleman?

Mr. UDALL. No. If the gentleman will yield, there is a study section in title VII. We had an original decision to make: Should we regulate coal and only coal or other minerals? The committee decided the bill should regulate only coal; but, because there was surface damage from other minerals, we provide for a study by the Interior Department as to the feasibility of regulating surface mining of other minerals.

I said to the gentleman from Florida that that study would cover the problem in Florida, just as it would for minerals in other States.

Mr. JOHNSON of Colorado. I thank the gentleman for that. As the gentleman knows, we have the Blue River Valley and other sections that have been dredged in skiing areas, one area that was dredged where they took mile after mile and left land piled up by the side of the road. That seems to be an area for study. Will that kind of problem be included in that section of the bill?

Mr. UDALL. Mr. Chairman, let me draw a distinction, if I can. There are two problems. One, should the Federal Government impose standards on minerals other than the mining of coal?

The second problem is the one the gentleman raises, should we have a fund or some machinery to go back and restore the land damaged in the production of gold or silver or lead or other minerals?

The study will focus on the first problem, but not on the second.

Conceivably, if there were legislation arising out of that study, we could have some sort of land program or reclamation program for lands damaged by mining of minerals other than coal; but that would be something that would have to be taken care of in later legislation.

Mr. RUPPE. Mr. Chairman, I have no further requests for time.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I just want to take a moment to advise the House that during the amendment process I plan to introduce an amendment which would ban strip mining on slopes of 20 degrees or more.

I was very interested to hear the gentleman from Arizona earlier say that the gentlewoman from Maryland would not know a slope of 30 degrees if she fell off it and then later decide, that indeed, she would know one if she fell off it. I thank the gentleman for his newly found confidence in my abilities. But the gentleman need not be concerned. I have no expectation of ever being a "fallen woman."

However, I assure the gentleman that I do know a 20-degree slope. I have slid down such slopes. I have slid down them in the rain and anyone who lives in my county right across the D.C. line would understand what we mean by slopes and understand what we mean by strip mining, would understand what we mean by desecrating the land, would understand what we mean by talking about mining land of 20 degrees or more, would understand what devastation is caused by mining with this method and would understand that it is time that we began to save our land. We in our county took steps to end, in our 476 square miles, the destruction of our Earth and the destruction of our environment and we feel it is long past time that our Nation's leaders embarked on a program which will provide assurance to the people of our Nation that they will leave to their children and their children's children a country which will truly be America, the beautiful.

So, Mr. Chairman, I will be offering my amendment in behalf of the people of the State of Maryland, and the people of this Nation.

Mr. KASTENMEIER. Mr. Chairman, for the third time in three successive Congresses, the House has an opportunity to endorse a piece of legislation which will begin a national policy to deal with one of the most insidious and exploitive practices that this Nation has faced. The congressional battle against strip mining has been a long one. During the 92d Congress, the House passed a responsible regulatory measure. However, the Senate was not able to act and the bill died with the Congress. In the 93d Congress, a good bill regulating surface mining of coal passed both Houses, but it was pocket vetoed by the President after the Congress had adjourned.

Now, due to the efforts of our colleagues, Mrs. MINK and Mr. UDALL, who have labored long and hard on behalf of a regulatory bill for strip mining, we are considering H.R. 25 which I have cosponsored and which I support. While this measure is not a perfect bill, and while some of its environmental provisions should be strengthened, H.R. 25 does represent a good solid beginning to deal with the strip mining problem which has been crying out for Federal policy direction for decades. By pasing H.R. 25, we can begin to put a halt to the present practice of allowing coal operators to reap the profits of strippable coal at the expense of the integrity of the land, the quality of the waters, and the health of the people of the Nation.

H.R. 25 establishes a national policy for the regulation of strip mining and demonstrates a commitment to an environmentally acceptable method of mining surface coal deposits. Under its provisions, the Nation will be able to use its vast coal reserves to meet our energy needs without raping the land in the process.

Mr. Chairman, we have spent enough time over the past few years debating whether or not we should pass legislation curbing strip mining. We should realize that we must act affirmatively on this

issue. The scars on the mountain sides and the prairies will not disappear. The soured streams and washed out hollows will not be repaired. The ruined lives and homes will not be remade. But, there is in this bill a hope that the future will not be a repeat of the past. H.R. 25 contains some measure of justice for the land, the waters, and the people who have been so abused by the evils of strip mining. I urge its overwhelming passage by the House.

Mr. FRENZEL. Mr. Chairman, today we are beginning consideration of H.R. 25, the Strip Mining Control and Reclamation Act of 1975. This is a lengthy and complex bill but it is one that the Members should be familiar with. Our history of serious consideration goes back to the 92d Congress where we passed a relatively simple bill which later died in the other body. Last session, after 6 days of heated floor debate and more than 50 committee markup sessions we finally passed a bill. Then, following 3 stormy months of conference meetings, the bill was finally sent to the President where it was pocket vetoed on December 30. Early in this session we received a request to make several modifications in bill as finally passed. The committee has accommodated many of these requests and has eliminated the particularly odious Senate provision for special unemployment financing.

The need to devise a regulatory framework for surface mining as well as the surface effects of underground mining is clear. Coal production will be a major weapon in our battle to control our energy situation and build a domestic base of usable power sources. Without definite and coordinated regulations to work from we cannot expect the coal industry to do the job that we are expecting from them. Last year we produced 590 million tons of coal in the United States. This is an enormous figure but there are almost 32 billion tons of strippable coal left in our Western regions alone. As it has been in recent years, almost 70 percent goes into electrical generation. We have an obvious responsibility to lay out a clear and navigable course. The industry needs to know the rules. In the Energy Research and Development Act which we passed last year we indicated a sincere Federal commitment to continued coal production and development. In that bill we allocated over $387 million for basic research, survey needs, and gasification and liquefaction development. Without a reasonable bill this session we will have effectively canceled out those efforts.

Not only must strip mining be regulated but it must be done on a Federal basis. Some 29 States now have regulations but many of them differ considerably from neighboring areas. This, along with frequent lack of sufficient staffing and underfinancing, is a major problem. Those States which have made the greatest efforts in preventing further destruction are often economically punished for their acts. Mining firms, with easily transportable stripping equipment, and a vast number of comparable sites, have simply crossed State lines into less strictly enforced regions and continued business as usual. This indirect penalty system is unfair and is one of the many problems which the Congress is obligated to clear up.

I will not review the individual provisions of the bill because that has been done by several other Members, but I do want to comment on several specific provisions.

One of the most controversial sections of the bill would require mine operators to restore strip mined areas to their approximate original contour. This would include the cleanup of all high walls, waste piles, and depressions unless insufficient waste remained to do the job.

While this may be a sound idea it does effectively prohibit alternative postmining, recreational, and agricultural uses of the land as well as frequently being economically prohibitive. "Original contour" is not necessary. Environmental compatibility is necessary, and that should be the goal here today.

The reclamation fees of 35 cents for stripped coal and 10 cents for underground mined material are too high. I will be interested in hearing further debate on this factor, but I am primarily concerned with their relation to the economic facts. Although the cost of advanced reclamation techniques, according to the President's Council on Environmental Quality are very small compared to the market value of the coal, these techniques, at committee cost levels, according to the committee report submitted, may raise the average bill to the consumer by as much as 3 percent. This is, for many, a significant rise in total billing and should be thoroughly considered.

The requirements for public participation contained in the bill have received many criticisms. They are not perfect I agree but, with the exception of citizens suits, they should be treated gently in any proposed amendments. In considering the suit question we should remember that the Interior Department will be responsible for the approval of State regulatory programs which must meet or exceed Federal requirements. Following approval of the plan then valid permits can be issued for mining purposes. With this system in effect I cannot agree with the committee that citizens should be allowed to bring suit against an individual operator for abuses under the act when a valid permit for his operations has been issued by the granting agency. The suit should be brought against the agency not the operator.

I am also concerned about the transition period regulations which would be in effect following the enactment of this bill. I fear that it may impose impossible burdens upon the individual States as well as have a devastating effect upon our short-term coal requirements.

We can all agree that we need to pass a strip mining bill. With over a million acres of American soil lying desecrated in various regions of the country and over 80 percent of the known Western coal reserves owned by the Federal Government the need is clear. However, our problem here today is to pass a bill which will allow the continued production of coal without further destroying the environment which we all have to live in. There will be several amendments proposed which are extensions of an abolitionist philosophy—these must be defeated. But we must also keep in mind the probable actions of the other body in strengthening this proposal beyond reasonable limits.

Let us pass a bill that will provide the concrete structure necessary to supply energy to this country.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, in view of the fact we are proceeding to the consideration of the committee amendments, I think it would be advisable to make the point of order that a quorum is not present.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1975".

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TITLE I—STATEMENT OF FINDINGS AND POLICY

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) extraction of coal and other minerals from the earth can be accomplished by various methods of mining, including surface mining;

(b) coal mining operations presently contribute significantly to the Nation's energy requirements; surface coal mining constitutes one method of extraction of the resource; the overwhelming percentage of the Nation's coal reserves can only be extracted by underground mining methods, and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry;

(c) many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources;

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

(e) because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States;

(f) while there is a need to regulate surface mining operations for minerals other than coal, more data and analyses are needed to serve as a basis for effective and reasonable regulation of such operations;

(g) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner; and

(h) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. It is the purpose of this Act to—

(a) establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations and surface impacts of underground coal mining operations;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(c) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) assure that surface coal mining operations are so conducted as to protect the environment;

(e) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(f) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided and strike a balance between protection of the environment and the Nation's need for coal as an essential source of energy;

(g) assist the States in developing and implementing a program to achieve the purposes of this Act;

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

(i) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act;

(j) encourage the full utilization of coal resources through the development and application of underground extraction technologies;

(k) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

(l) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the fields of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in various States; and

(m) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through effective control of surface coal mining operations.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia:

Page 173, line 14, strike out all of subsection (d) and insert therein the following:

"(d) while responsibility for regulation of coal surface mining rests with the States, the absence of effective regulatory laws and effective enforcement in many States may require that the Federal Government assume responsibility;

"(e) effective regulation of surface coal mining operations by the States and by the Federal Government in accordance with the requirements of this Act is an appropriate and necessary means to prevent the adverse social, economic, and environmental effects of such mining operations."

Redesignate the following paragraphs accordingly.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment makes two very simple changes in the findings section of the bill, section 101. I would call the attention of the Committee to the language of the present bill, H.R. 25, on page 173, for example, line 19, which contains the first of several rather weasel-worded phrases, namely: "to minimize so far as practicable."

Mr. Chairman, it seems to me that this is one of the major general difficulties with this bill, that it contains such loopholes and weasel-worded phrases as "to minimize so far as practicable."

So, essentially what my amendment does is first to underline the need for a stronger Federal backup enforcement which is capable of taking over should an individual State fail to enforce this act. It seems to me that we must recognize, as we do in the language of this act, that the failure of State regulations in strip mining, particularly in Appalachia, was one of the major motivating factors for bringing this legislation here for action by the Congress.

Mr. Chairman, I think very properly the Committee on Interior and Insular Affairs called attention to the need for a Federal readiness to take over where States failed to come up with plans and programs under the timetable and requirements of the act. I commend the committee for doing that.

Unfortunately, some of this language was amended out of the bill during floor debate last summer in the House with respect to the precise wording in the findings.

The second part of my amendment would delete the words which I described as being a rather broad loophole "minimize so far as practicable" and replace this with a more positive word "prevent."

The purpose of this bill, after all, is to prevent the adverse social, economic, and environmental effect of strip mining, and this should be set forth very clearly in the findings of the bill. I think it is ridiculous if we start right off in the findings and the preamble of the bill to include language which does not indicate very clearly what the bill intends to do.

For that reason I urge support of this clarifying amendment which calls attention to the need for stating the findings a little more positively.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, this amendment should be defeated for two reasons. It would strike out one of the major policy sections in the bill and then rewrite it. The policy section now in the bill on page 173 is a carefully balanced provision that the committee chewed over at some length, which puts the emphasis on State regulation and only Federal regulation as a backup.

The gentleman's amendment would undo that careful compromise.

Second, we tried to be careful in committee against using absolutes like "prevent adverse consequences." It is clear that if we are going to strip mine, there will be some economic and some social consequences, but the bill says we are going to limit and circumscribe those to a considerable degree. So we use the word "minimize."

The gentleman's amendment uses the word "prevent" and I would ask that the committee be supported on this.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I thank the gentleman for yielding.

This is not a result of an intracommittee compromise. I would like to ask the gentleman, Is it not true that this language was put in in the Hosmer amendment which was adopted on the floor last year rather than being language that was put in in the committee?

Mr. UDALL. This was an attempt, I would say to my friend, the gentleman from West Virginia, to meet some of the objections that we were dealing in absolutes and impossibiles, and we tried to state it carefully and in a balanced way, and I think the committee did this.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, I think the passing of the amendment would well lead to a prohibition against strip mining in this country. I recognize that the gentleman has a very strong feeling on the matter, and, from his point of view, I am sure, some very solid reasons as to why strip mining should be eliminated. The fact of the matter is that we desparately need more mining of surface coal in this country at the present time, and we need to mine it in a balanced way in conformity with this legislation.

I think the use of the word "prevent" could lead to a prohibition. The fact of the matter is one cannot say that when the excavation for this building was initiated there was not some environmental damage to the land under the building. When the addition to the Library of Congress is concluded, I am sure there will be some environmental damage. There will not be any absolute guarantee of absolute prevention of any damage to the land under that foundation. The word "prevent", again the use of an absolute, could lead some court to believe or to render an opinion that would lead to the elimination of strip mining. That is not the direction that this legislation should take. That is not the direction that I believe the committee nor the Congress would want to take. For this reason I do oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 174, line 4, insert the following new subsection:

"(f) there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground coal mining, on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality;"

Redesignate the following paragraphs accordingly.

[Mr. HECHLER of West Virginia addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments to this title, the Clerk will read title II.

The Clerk read as follows:

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 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 V 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 reponsibilities 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, shall be transferred to the Office.

(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 subpenas, 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;

(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 this Act and, at the same time, reflect local requirements and local environmental 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 pursuant 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.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I will not object, but I do so just for purposes of engaging in a colloquy with my friend, the gentleman from Arizona. I am sure he will see to it that all Members who have an amendment to offer will get an opportunity to do so.

Mr. UDALL. Mr. Chairman, the only purpose of my request is to expedite and not to cut off discussion.

Mr. DINGELL. I thank the gentleman.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Mr. Chairman, I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I ask the gentleman to yield for the purpose of engaging the gentleman from Arizona in a colloquy. This bill, I would advise my friend, as my friend is aware, apparently has confused some of the Members of the other body into believing the bill as it is now written would allow the States to impose regulations on Federal lands.

Mr. UDALL. No, as I discussed earlier today in the colloquy with the gentleman from Michigan this problem. The understanding I have with the bill is that if Federal lands are to be put outside the bounds of surface mining, it be done under Federal act under the designations section and not by delegating authority to do that in the States.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Are there amendments to title II?

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: On page 177, lines 4 and 5 strike "in the Department of the Interior," and insert therein "in the Environmental Protection Agency,".

On page 177, strike all on line 22 and insert therein the following: "(c) Except as specifically provided elsewhere in this Act, the Director shall—".

Mr. DINGELL. Mr. Chairman, I have amendments to section 201 of title II and sections 701 and 712 of title VII of H.R. 25 which were printed in the RECORD of March 13, 1975, beginning on page H1723 as required by rule XXIII, clause 6.

Mr. Chairman, my amendment would transfer some, but not all, of the functions prescribed by this bill to the Environmental Protection Agency.

The Interior Department is essentially a land management and research and development oriented agency. It also has regulatory responsibilities. But in this area, Interior has been quite ineffective, and constantly under fire for showing too much favoritism toward the energy industries.

Indeed, for several years it has had regulations governing surface mining on Federal lands. But the regulations are weak, and the General Accounting Office was critical of Interior's even weaker enforcement of them.

The GAO has also been highly critical of Interior's weak enforcement of the 1969 coal mine health and safety law and oil and gas operations on the Outer Continental Shelf, as has the House Committee on Government Operations and my own Small Business Subcommittee.

I think it wrong to place another energy regulatory burden on Interior.

My amendment would transfer the regulatory functions of the bill to EPA, while carefully separating within EPA the functions so that the new Office of Surface Mining Reclamation and Enforcement will not act as policeman, prosecutor, and judge.

I urge the adoption of my amendment.

Under the proposed amendment, administration of H.R. 522 will be divided as follows:

To the Secretary of the Interior:

First. All of title III concerning State mining and mineral resources and research institutes;

Second. All of title IV concerning the reclamation of abandoned mines;

Third. All of title VI concerning the designation of lands unsuitable for noncoal mining;

Fourth. Section 522(b), which provides for a review of Federal lands to determine which areas are unsuitable for surface coal mining;

Fifth. Section 523 (b) through (e), which relates to Federal mineral leases, permits, or contracts involving surface mining which are now administered by Interior;

Sixth. Section 701(10) and 710 concerning Indian lands;

Seventh. Section 713, research and demonstration;

Eighth. Section 714, surface owner protection re federally owned mineral rights; and

Ninth. Section 702(b), Federal lands.

To the Environmental Protection Agency and the Director of the new Office of Surface Mining Reclamation and Enforcement:

First. Section 201, which places the new office in EPA.

Second. Title V, all of the regulatory functions of title V; namely, sections 501 through 504, 506, 516, 517, 518, 521, 523 (a) and (c) through (e), 525, 526, 529.

Third. Section 703, employee protection functions.

Fourth. Section 705, grants to the States.

Fifth. Section 708, Alaskan surface coal mine study oversight responsibility.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, this is a balanced compromise bill. It is assaulted by one side, by the environmentalists, who say it is weak and you cannot stop the excesses. It is assaulted by the industry, who says it will stop the production of coal.

This amendment will upset a series of four or five major compromises. The question arose very early on that if we are going to have a new strip mining law, who would enforce it? The environmentalists argue that the Environmental Protection Agency should enforce it. The compromise was that the Department of the Interior would enforce it. But some of the concerns expressed by the gentleman from Michigan are concerns that I agree with. The Department of the Interior has been too cozy with the coal industry over the years. So as part of the compromise, we set up a new office in the Department of the Interior to be separate and apart from those divisions of the Department of the Interior that promote coal production and have been identified with the industry previously.

The gentleman's amendment upsets that compromise, takes the enforcement out, puts it in the EPA, and I think this would be unwise. I think this new office can do the job, and we have safeguards in the bill to see that this is done.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. UDALL. Yes, I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, I suspect the gentleman wants a strong bill and is not totally satisfied with what we have before us. I think the gentleman has already indicated to us his personal preference what kind of action should lie in EPA. I am sure the gentleman would support the compromise. I support his compromise.

Mr. UDALL. I would have supported that view of it originally. But we made a compromise, and I am going to stick with it. We insisted that this be a brandnew office of Interior.

Mr. DINGELL. Mr. Chairman, will the gentleman yield further?

Mr. UDALL. Yes.

Mr. DINGELL. Mr. Chairman, the gentleman is probably doing what he should, and I am well satisfied. But the hard fact of the matter is that the Department of the Interior has a miserable track record in these kinds of matters, as I am sure the gentleman will agree.

Mr. UDALL. We are going to keep their feet to the fire, and I think they will enforce the spirit of this law.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I would just like to join in opposition to the amendment and perhaps give sort of a laboratory sample of why this bill is indeed a compromise. I am in hysterical opposition, I want to tell my friend, because the one single thing that would make this bill even more intolerable—and it is intolerable—would be to have the EPA, an advocate of pristine atmospheric, hypogenic values and the public be damned, that kind of an attitude, administering these kinds of ambiguous regulations would guarantee the destruction not only of this great resource but of this land itself, and would fall like an overripe fruit in the hands of the waiting Communist hordes.

Mr. UDALL. The gentleman moves me very much with his oratory.

Another practical reason I oppose this amendment is that I suspect we will be back in this Chamber trying to override a veto.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the very good amendment offered by the gentleman from Michigan (Mr. DINGELL).

I think that the "overripe fruit" that is likely to drop is the efficacy of this legislation if the amendment is not adopted. Our experience with the Interior Department is that it is so completely dominated by the interests that it is supposed to regulate in the public interest, that the legislation would be rendered virtually meaningless if it were given the responsibility for enforcement.

I think that if we are serious about getting some protection for our environmental concerns and not having the land raped, we must make sure that we have meaningful enforcement. If we pass legislation, we want to see to it that it is carried out. The EPA will do it. Interior would not.

It happens all too frequently that we pass legislation in this body and then sit by idly and see that legislation frustrated through lack of enforcement and through conflicts of interest that do exist within the executive body.

I think this is important legislation. We ought to see that it is carried out. With all due respect, to both my friends from Arizona, Mr. UDALL and Mr. STEIGER, the compromise is a bad one.

Mr. Chairman, I strongly urge the adoption of this amendment.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Chairman, I wanted to abstain from speaking. But since my good friend and colleague from the 89th District, the gentleman from New York, DICK OTTINGER, spoke for the amendment, I rise in the hope that I might hold a few freshmen votes in support of the committee version.

This is a finely honed compromise. I do wish to defend the attitude of the Department of the Interior on some environmental problems in the last several years. I think there has been no more conscientious spokesman for environmental protection than the brother of the gentleman from Arizona (Mr. UDALL), the former Secretary of the Interior, Stewart Udall, in the years he was in that post. He did much to correct the abuses of the past decades which have caused so much of the criticism of the Interior Department.

So, Mr. Chairman, I will ask the Members to please stay with the committee bill. I urge a vote against the amendment. We will take care of this change next year if it proves warranted and we should support the committee now if we are going to get a law on the statute books now, concerning surface mining.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we have a very tough and a very rigorous bill before this Committee. We have a piece of legislation that is 166 pages in length. It covers every facet of mining reclamation and the problems of the environment, and I believe it is a measure worthy of support by the majority of this House.

I would like also to point out that in the lobbying that has gone on both last year and this year within the administration, the Interior Department has time and time again come out in favor of the tougher way of regulating strip mining. It has come out time and time again for very rigorous legislation, and of all the agencies in Government, the Department of the Interior has time and time again fought for this legislation. It has fought for the most rigorous and the toughest portions of this legislation, and within the administration it certainly has been a very forceful voice, not only in support of the legislation, but in support of strip mining control and in support of regulations that would protect the environment.

Mr. Chairman, let me just point out one thing that this legislation contains. There are 10 different instances, for example, when we can have citizen participation. There are 10 different instances of that. So this, to my way of thinking, shows that the legislation basically is tough, and the fact that the Interior Department and Rogers Morton have time and time again lobbied for the legislation is a very strong indication to me that they mean business, and that they will do a very forceful and a very good job of managing the legislation after it passes the Congress.

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Dingell amendment.

Mr. Chairman, this is one of the most important strengthening amendments to come before the Committee of the Whole and I hope that the Committee will support it.

There is a group of individuals who cannot vote to override the veto that the President expects to make of this bill, and if we do not strengthen it sufficiently, it will not be worth overriding the veto.

I will simply observe in substantive argument in support of the Dingell amendment that the Department of the Interior is basically a management agency. It manages land and resources. On the other hand, the Environmental Protection Agency is an agency which is occupied primarily with setting standards and regulations, such as the control of air and water pollution and the control of pesticides.

Many of the problems that are associated with the strip mining of coal relate to air and water pollution. Therefore, I think it is quite logical, with the experience and expertise under the management and regulatory staff that the Environmental Protection Agency has developed over the years, that this function should be placed in EPA.

The gentleman from Arizona once again remarked that this bill was a compromise. I think we ought to do something right, right at the start instead of coming in with a piece of legislation which is a very loose series of bandaids on a very serious cancer like strip mining. The issue is, whether this overripe fruit that my very good friend, the gentleman from Arizona, referred to may not turn out to be a great moonscape as a result of all the strip mining that is devastating the land.

Mr. OTTINGER. Mr. Chairman, will tht gentleman yield?

Mr. HECHLER of West Virginia. I gladly yield to the gentleman from New York.

Mr. OTTINGER. Is it not a fact, with all due deference to my friend, the gentleman from Michigan (Mr. RUPPE), that when the Interior Department came up and testified on this legislation a couple of years ago, it supported the most important of and the great majority of the weakening amendments, rather than the strengthening amendments?

Mr. HECHLER of West Virginia. It is not only a fact that the Department of the Interior testified for weakening the legislation in 1973, also, the Department of the Interior testified as recently as last month when they were given an opportunity to meet with the committee that they had weakening amendments they desired. There was constant pressure for weakening the effect of this legislation.

Mr. OTTINGER. If the gentleman will yield further, as I recall, the Interior Department came out against having a strong Federal role in this legislation.

Mr. HECHLER of West Virginia. That is correct; from the very start, the Department of the Interior has attempted to weaken the bill and lessen the Federal role.

Mr. OTTINGER. They came out against having strong provisions for citizens' suits to enforce the legislation.

Mr. HECHLER of West Virginia. The gentleman is correct.

Mr. OTTINGER. From their attitude, one would assume that they really are not for strong legislation at all and would not enforce it well.

Mr. HECHLER of West Virginia. As a matter of fact, the gentleman from Arizona (Mr. UDALL) remarked during the last session of Congress when we were debating this bill that the only contribu-

tion made by the administration was in weakening the bill.

Since I mentioned the gentleman's name, perhaps I should yield to him on that point.

Mr. OTTINGER. If the gentleman will yield a little further, I would like to find out about this compromise.

Between whom is this compromise? It cannot be between the two gentlemen from Arizona. I take it that the gentleman from Arizona (Mr. STEIGER) is not going to support this legislation.

Can we be informed with respect to the nature of who is involved in the compromise?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, what I said was that the bill is a compromise. The compromising was done in two places, one in the Committee on Interior of the House over a period of months and months during the markup, and second, the compromise occurred in the Committee on Ways and Means, which was between God and the taxpayers and influenced by the parties of one of the first conference committees in the history of the Congress that was open.

Mr. HECHLER of West Virginia. To continue, is there any reason whatsoever that this House of Representatives, acting through the Committee of the Whole, has to take whole hog a piece of legislation simply because it comes to us with some delicate compromises that are the result of pressure on the part of the coal industry?

Mr. OTTINGER. If the gentleman will yield further, I think that we are going to have the votes to pass strong legislation and to pass it with enough of a majority to indicate that we can override a veto, and I do not think there is any need to compromise on the very critical question of whether this legislation is going to be enforced effectively.

Mr. HECHLER of West Virginia. Mr. Chairman, I urge strong support for the Dingell amendment.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment, and I yield to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I thank the gentleman for yielding.

I just want to point out that much of the opposition voiced by the Interior Department to the legislation as it has been written is their opposition to some of the absolute words in the legislation like "prohibit" and "prevent."

I do not think, frankly, that when we mine coal throughout the United States we can prohibit or prevent any environmental or social degradation. Frankly, if those words in the legislation are not deleted, there will be untold litigation in the months and years ahead. It is going to retard, if not prevent, mining; and I think the Interior Department has every reason to get those absolute words out of the legislation.

I think we ought to ask ourselves also whether, indeed, there is any agency, other than EPA, that can do a job like this.

Let me say that even these four woebegone States at times have done an excellent job. Ohio and Pennsylvania have done a superb job in regulating surface mining of coal in those two States; and I think if the rest of the States of the United States passed legislation similar to what Pennsylvania and Ohio have, we would have no need for the legislation that is before us here today.

So often people think that EPA is some magic word for perfection, that somehow it will manage the environment and protect against degradation of land values better than any other agency. But even the EPA can make a mistake a time or two.

I recall the other day that EPA was given a good deal of credit or discredit for coming up with the catalytic converter to solve the problem of automobile emissions as far as hydrocarbons and carbon monoxide are concerned. Yet it turned out that the catalytic converter is spewing out sulfuric acid in the atmosphere in uncontrolled amounts.

So I question whether it is absolutely imperative that we give EPA the control and regulatory authority for the legislation that passes this House.

The Department of the Interior and Secretary Rogers Morton are committed to the legislation before us, and they will certainly do a good job in providing the proper regulatory framework. I believe the amendment should be defeated.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I wonder if I may direct a question to the gentleman from Michigan?

Is the Secretary of the Interior going to advise the President to sign this legislation? I would assume that was what the gentleman from Michigan is saying.

Mr. RUPPE. Mr. Chairman, I cannot of course speak for the Secretary of the Interior, but let me say that within the agency there are different degrees of support and this is not any secret on either side of the aisle—the Secretary of the Interior has been an advocate of a strong piece of legislation, and within the debate inside the administration he has certainly been the voice of support for the bill. So I believe he would urge the President to sign the bill, albeit it is not exactly a secret, either, that the Interior's voice is not the only voice heard by the President when he makes a final determination for supporting or withholding his support for the bill.

Mr. HECHLER of West Virginia. Mr. Chairman, if the gentleman will yield still further, can the gentleman from Michigan name me one amendment, one piece of testimony, or anything that the Secretary of the Interior has done, which would urge strengthening of this bill in any respect during the course of the year, or during the course of the discussion with regard to this legislation?

Mr. RUPPE. We have to remember that when the bill came out early last year the bill provided almost a prohibition on surface mining of coal. It was a bill under which, at that time, there could have been, mind you, no surface mining of coal. It is a little difficult to take a bill which would have essentially abolished the surface mining of coal and toughen it any further.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan. I recognize the need for a realistic compromise in passing this legislation. I am sure that the distinguished subcommittee chairman, the gentleman from Arizona, has carefully crafted a piece of legislation which he does not wish to have disturbed. I am cognizant of the words of the other gentleman from Arizona (Mr. STEIGER) about the dire effects of having EPA involved in the regulation of certain environmental aspects of this bill. I want to assure the gentleman that he should not have that much fear.

The EPA has proved quite realistic in its attitude toward environmental matters, as its recent action in connection with automobile exhaust emissions has indicated.

Frankly, I will support this amendment not because I feel that EPA is going to be such a great improvement over the Depatrment of the Interior in the rigor with which it enforces this bill, but because I think it is better qualified by virtue of its personnel, and the kind of actions which it is accustomed to taking to perform the kind of actions that are required by the environmental regulations that are contained in this bill. It is a logical place in which to put this responsibility. I think it would be as realistic in looking at the problems of the coal industry as it has been in looking at the problems of the automobile industry. Frankly, I do not think it has to be that realistic, and I would wish that it were not, but it will be under the present administration. I would support the amendment, therefor, on the ground that EPA is better qualified to accomplish the task, do it more effectively, and possibly more economically than can the personnel of the Department of the Interior.

It is for that reason that I am supporting the amendment to give the EPA this responsibility rather than any strong feeling on my part that they are going to actually engage in the kind of rigorous enforcement which some of the opponents of the amendment seem to fear.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I think that we are all very much interested in having effective enforcement and a comprehensive approach toward the promulgation of regulations in conformity with the legislation that we are considering. But it seems to me that we have to take at least two points in considering the gentleman's amendment. One is the past experience that the De-

partment of the Interior has had over the coal mining industry in various aspects, not only in research but the actual day-to-day aspects of inspecting the coal mines with respect to the safety and health of the miners. In connection with that, most of the reserves we are dealing with are Federal coal reserves. When we talk about the development of the West, we are basically dealing with Federal coal.

In conjunction with that, the Department of the Interior has promulgated regulations in late December or January to help begin the process of regulating our own coal development and production. So in that light it seems to me that if we were now to carve out of this bill the responsibilities for promulgating regulations and for enforcing them to a new agency that does not have the experience in this area, we will simply be delaying the whole operation and effectiveness of this very, very complex piece of legislation.

Second, I think it must be pointed out that EPA has a very definite role in the bill. We have given at least in two instances in the bill that come to my attention specific veto to the EPA. We require written concurrence with not only the promulgation of the regulations in the first part, but also the issuance of the permit, so with respect to the clean air-water concepts with which EPA has prime responsibility, we have very carefully written into this piece of legislation their important role, and we have recognized their responsibility in this respect.

So it seems to me that instead of changing the whole course of implementing this legislation at this late date, what we should do is give the Department of the Interior the responsibilities as written in the bill, and if down the road we find that they have been ineffective and nonresponsive to the environmental concerns of this country, then perhaps at that time it would be appropriate to take another look at this section and perhaps put their feet to the fire and change the administration to another agency.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentlewoman for yielding.

I agree with everything the gentlewoman has said but I am going to vote for this amendment. The reason why I am going to vote for it is that it will give us an opportunity in conference to rewrite this bill so that we will make sure that the Office of Enforcement in the Department of the Interior is in an independent status and not put under MESA, which would, in effect, make it a weak body.

Mrs. MINK. I would simply like to conclude by saying that most of us on the committee are very much aware of the many deficiencies in the Department of the Interior, and we are working with them on a day-to-day basis in our oversight responsibilities. But it seems to me in this one area in the development of our coal resources that the Department of the Interior should be given the opportunity to move ahead. It is Federal coal we are dealing with by and large, and they have already promulgated regulations at least initially that seek to implement some of the provisions of this law. So I would urge the House to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and on a division (demanded by Mr. HECHLER of West Virginia) there were—ayes 20, noes 36.

Mr. HECHLER of West Virginia. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title II?

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. 101 Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to the provisions of clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Are there further amendment to title II?

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 177, line 6, strike the period and add "under the Assistant Secretary for Land and Water Resources."

Page 177, line 10, strike "V" and insert "IV."

[Mr. SEIBERLING addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. STEIGER of Arizona. Mr. Chairman, on that I demand a recorded vote and make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. STEIGER of Arizona. I am told Mr. Chairman, that you are not honoring my point of order that a quorum is not present.

The CHAIRMAN. The Chair has counted 21 Members to this point.

Mr. STEIGER of Arizona. Mr. Chairman——

The CHAIRMAN. The Members will be seated. The Chair is counting for a quorum.

Mr. STEIGER of Arizona. Mr. Chairman, another point of order. I do not want to confuse anyone here. I would ask the Chair this: Is it true that if 21 Members are standing, that is a sufficient number on which to base a rollcall vote and we would then avoid the necessity of demanding a quorum? It obviously is not here anyway.

The CHAIRMAN. Is the gentleman from Arizona withdrawing his point of no quorum?

Mr. STEIGER of Arizona. No. I am just asking, if there are 21 Members who responded to my demand for a rollcall, which I coupled very cleverly with a point of order that a quorum was not present, that is sufficient if 20 were standing, but the Chair announced that 21 were standing.

The CHAIRMAN. The point of no quorum must be disposed of first.

Mr. STEIGER of Arizona. Even though the demand preceded the point of order?

The CHAIRMAN. Yes.

Mr. STEIGER of Arizona. This is very interesting. I want all the Members to remember that.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I ask him to withdraw it and I will support his request for a vote and we will thereby save time.

Mr. STEIGER of Arizona. All right. I think it is going to work out.

The CHAIRMAN. Sixty-eight Members are present, evidently not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and two Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The pending business is a demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 100, not voting, 187, as follows:

[Roll No. 52]

AYES—145

Alexander	Chisholm	Gude
Ambro	Clay	Haley
Anderson, Calif.	Collins, Ill.	Hall
	Cornell	Hamilton
Ashley	Danielson	Hannaford
AuCoin	Derrick	Harkin
Baldus	Dingell	Harris
Baucus	Downey	Hayes, Ind.
Bennett	Drinan	Hechler, W. Va.
Bergland	du Pont	Holland
Bingham	Eckhardt	Holtzman
Blanchard	Emery	Hubbard
Blouin	English	Hughes
Bolling	Evans, Colo.	Jacobs
Bonker	Fascell	Jeffords
Breckinridge	Fenwick	Jenrette
Brinkley	Fish	Jones, N.C.
Brodhead	Fisher	Jones, Okla.
Brown, Calif.	Flood	Kastenmeier
Burke, Calif.	Foley	Keys
Burke, Mass.	Forsythe	Krebs
Burlison, Mo.	Gaimo	Krueger
Burton, Phillip	Gibbons	LaFalce
Carr	Green	Leggett

Lehman	Obey	Spellman
Long, La.	Ottinger	Stanton,
Long, Md.	Passman	J. William
McFall	Patman	Stanton,
McHugh	Patterson, Calif.	James V.
Macdonald	Perkins	Stark
Madden	Preyer	Steed
Maguire	Price	Stokes
Mann	Rees	Studds
Matsunaga	Regula	Sullivan
Mazzoli	Richmond	Thornton
Melcher	Riegle	Traxler
Mezvinsky	Roncalio	Tsongas
Miller, Calif.	Rooney	Udall
Mineta	Roush	Van Deerlin
Mink	Roybal	Vander Veen
Mitchell, Md.	Russo	Vanik
Moakley	Ryan	Vigorito
Moffett	Sarbanes	Weaver
Mollohan	Scheuer	Whalen
Morgan	Schroeder	Wilson,
Moss	Seiberling	Charles, Tex.
Natcher	Sharp	Wirth
Nolan	Slack	Yatron
Nowak	Smith, Iowa	Zablocki
Oberstar	Solarz	

NOES—100

Andrews, N. Dak.	Hastings	Randall
Annunzio	Hicks	Risenhoover
Armstrong	Hightower	Roberts
Bauman	Hillis	Robinson
Bevill	Hinshaw	Rogers
Biester	Holt	Rose
Brown, Mich.	Howe	Rousselot
Brown, Ohio	Hyde	Ruppe
Broyhill	Ichord	Sarasin
Buchanan	Johnson, Colo.	Satterfield
Burgener	Johnson, Pa.	Schneebeli
Burke, Fla.	Kasten	Shriver
Burleson, Tex.	Kazen	Shuster
Byron	Kemp	Sikes
Carter	Lagomarsino	Skubitz
Clausen,	Latta	Steiger, Ariz.
Don H.	Lloyd, Tenn.	Stephens
Clawson, Del	McCloskey	Symms
Cohen	McCollister	Taylor, N.C.
Daniel, Dan	McDade	Teague
Daniel, Robert	McDonald	Thone
W., Jr.	Madigan	Treen
de la Garza	Mahon	Waggonner
Dickinson	Martin	Walsh
Duncan, Oreg.	Miller, Ohio	Wampler
Erlenborn	Montgomery	White
Findley	Moore	Whitten
Gonzalez	Moorhead,	Wiggins
Goodling	Calif.	Wilson, Bob
Gradison	Mosher	Winn
Grassley	Myers, Pa.	Wright
Guyer	Nichols	Young, Alaska
Hagedorn	Poage	Young, Fla.
Hansen	Pressler	Young, Tex.
	Quie	

NOT VOTING—187

Abdnor	Coughlin	Hammer-
Abzug	Crane	schmidt
Adams	D'Amours	Hanley
Addabbo	Daniels,	Harrington
Anderson, Ill.	Dominick V.	Harsha
Andrews, N.C.	Davis	Hawkins
Archer	Delaney	Hays, Ohio
Ashbrook	Dellums	Hébert
Aspin	Dent	Heckler, Mass.
Badillo	Derwinski	Hefner
Bafalis	Devine	Heinz
Barrett	Diggs	Helstoski
Beard, R.I.	Dodd	Henderson
Beard, Tenn.	Downing	Horton
Bedell	Duncan, Tenn.	Howard
Bell	Early	Hungate
Biaggi	Edgar	Hutchinson
Boggs	Edwards, Ala.	Jarman
Boland	Edwards, Calif.	Johnson, Calif.
Bowen	Eilberg	Jones, Ala.
Brademas	Esch	Jones, Tenn.
Breaux	Eshleman	Jordan
Brooks	Evans, Ind.	Karth
Broomfield	Evins, Tenn.	Kelly
Burton, John	Fithian	Ketchum
Butler	Florio	Kindness
Carney	Flowers	Koch
Casey	Flynt	Landrum
Cederberg	Ford, Mich.	Lent
Chappell	Ford, Tenn.	Levitas
Clancy	Fountain	Litton
Cleveland	Fraser	Lloyd, Calif.
Cochran	Frenzel	Lott
Collins, Tex.	Frey	Lujan
Conable	Fulton	McClory
Conlan	Fuqua	McCormack
Conte	Gaydos	McEwen
Conyers	Gilman	McKay
Corman	Ginn	McKinney
Cotter	Goldwater	Mathis
Meeds	Peyser	Spence
Metcalfe	Pickle	Staggers
Meyner	Pike	Steelman
Michel	Pritchard	Steiger, Wis.
Mikva	Quillen	Stratton
Milford	Railsback	Stuckey
Mills	Rangel	Symington
Minish	Reuss	Talcott
Mitchell, N.Y.	Rhodes	Taylor, Mo.
Moorhead, Pa.	Rinaldo	Thompson
Mottl	Rodino	Ullman
Murphy, Ill.	Roe	Vander Jagt
Murphy, N.Y.	Rosenthal	Waxman
Murtha	Rostenkowski	Whitehurst
Myers, Ind.	Runnels	Wilson,
Neal	St Germain	Charles H.,
Nedzi	Santini	Calif.
Nix	Schulze	Wolff
O'Brien	Sebelius	Wydler
O'Hara	Shipley	Wylie
O'Neill	Simon	Yates
Patten	Sisk	Young, Ga.
Pattison, N.Y.	Smith, Nebr.	Zeferetti
Pepper	Snyder	

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 177, lines 3 to 6, strike out all after "Sec. 201(a)" and insert the following: "There is established in the Environmental Protection Agency, which is to act in consultation with the Department of Interior with respect to this Act, the Office of Surface Mining Reclamation and Enforcement (hereinafter referred to as the "Office").

On page 177, strike all on line 55 and insert:

"(c) Except as specifically provided elsewhere in this Act, the Director, in consultation with the Secretary of the Interior, shall—"

Mr. OTTINGER. Mr. Chairman, the purpose of this amendment is to accomplish the substance——

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will yield after I have finished my statement.

Mr. STEIGER of Arizona. Mr. Chairman, may we have a copy of the amendment? That is all I want. We do not have a copy of the amendment.

Mr. OTTINGER. There is a copy of the amendment at the desk.

Mr. Chairman, what this amendment does, if the gentleman from Arizona will listen for 1 minute, is identically——

PARLIAMENTARY INQUIRY

Mr. STEIGER of Arizona. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STEIGER of Arizona. Mr. Chairman, without a copy of the amendment, we cannot understand the purpose of the amendment.

I thought that under the new rules we are under some obligation to provide some sort of amendment in written form so that those Members who wish to go to the extra effort might read and understand what is going on.

Am I correct or incorrect, Mr. Chairman?

The CHAIRMAN. It does not stop the consideration of an amendment, although that is supposed to be the custom.

Mr. STEIGER of Arizona. Mr. Chairman, the rule is simply a matter of courtesy rather than one of mandate?

The CHAIRMAN. The gentleman is correct.

Mr. STEIGER of Arizona. I thank the Chair.

Mr. OTTINGER. Mr. Chairman, if the gentleman from Arizona will pay attention, I will tell him what the amendment is all about.

This amendment would put the responsibility for enforcement of this Act in the Environmental Protection Agency, with the additional requirement that the Environmental Protection Agency consult with the Department of the Interior. It gives the Director of the Environmental Protection Agency the responsibility for taking the actions under this Act in consultation with the Secretary of the Interior. The substance of this amendment, with the exception of the consultation provisions, was provided in the Dingell amendment. We did not get the opportunity for a record vote on that amendment, and I think we should have that opportunity.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, does this put the responsibility for the legislation in the hands of the EPA entirely, or does the Secretary of the Interior still retain a portion of that responsibility?

Mr. OTTINGER. The Secretary must be consulted by the EPA.

Mr. RUPPE. The responsibility for the legislation and that propagation of the administration of the bill would be transferred to the EPA?

Mr. OTTINGER. The EPA would act in consultation with the Secretary of the Interior.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in support of the gentleman's amendment.

I would like to urge those people who are concerned about the future of the country and the electric bills of their constituents to support this amendment. I assure the Members that if this amendment is to succeed—and I assume we are going to have a record vote—this will be the one way we can guarantee a veto, and that is probably the only way to save the consumers of this country.

So, for those Members who wish honestly to sink this bill, I hope they join with me in that desire. The best way to guarantee a veto is to support the amendment offered by the gentleman from New York (Mr. OTTINGER).

That is on the level, Mr. Chairman.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would not expect support from the gentleman from Arizona (Mr. STEIGER) on any basis ordinarily. For the moment, I was slightly worried about that.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words, and I rise again in opposition to this amendment.

This is the identical amendment to the Dingell amendment which we have already earlier defeated. I believe that is

perhaps down the road, because, after we have had experience under this legislation, we may want to consider a transfer of the enforcement responsibilities to another agency.

However, at this onset we are simply developing the regulations. It seems to me we ought to leave this responsibility in the Department of the Interior.

The bill as now constructed, as I said earlier, does give the responsibility to EPA. It gives a veto responsibility over the promulgation of regulations insofar as clean air and clean water and the issuance of permits are concerned.

So, Mr. Chairman, I ask my colleagues to please vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 67, noes 174, not voting 191, as follows:

[Roll No. 53]

AYES—67

Ambro	Harkin	Ottinger
Baucus	Harris	Rees
Biester	Hechler, W. Va.	Richmond
Blouin	Heckler, Mass.	Riegle
Brodhead	Holtzman	Rooney
Brown, Calif.	Jacobs	Sarbanes
Burke, Calif.	Kastenmeier	Scheuer
Burton, Phillip	Krebs	Schroeder
Carr	Lehman	Sharp
Chisholm	McCloskey	Solarz
Clay	McHugh	Spellman
Collins, Ill.	Madden	Steiger, Ariz.
Cornell	Maguire	Stokes
Dingell	Mezvinsky	Studds
Downey	Miller, Calif.	Traxler
Drinan	Mitchell, Md.	Vander Veen
Emery	Moakley	Vanik
Fish	Moffett	Weaver
Fisher	Mosher	Whalen
Green	Moss	Wirth
Gude	Nedzi	Young, Alaska
Hall	Nolan	
Hannaford	Nowak	

NOES—174

Alexander	Danielson	Hyde
Anderson, Calif.	de la Garza	Ichord
Anderson, Ill.	Derrick	Jeffords
Andrews, N. Dak.	Dickinson	Jenrette
Annunzio	Duncan, Oreg.	Johnson, Colo.
Archer	du Pont	Johnson, Pa.
Armstrong	Eckhardt	Jones, N.C.
Ashley	English	Jones, Okla.
AuCoin	Erlenborn	Kasten
Bauman	Evans, Colo.	Kazen
Bennett	Fenwick	Kemp
Bevill	Findley	Krueger
Bingham	Flood	LaFalce
Blanchard	Foley	Lagomarsino
Boiling	Forsythe	Latta
Bonker	Giaimo	Leggett
Breckinridge	Gibbons	Lloyd, Tenn.
Brown, Mich.	Gonzalez	Long, La.
Brown, Ohio	Goodling	Long, Md.
Broyhill	Gradison	McCollister
Buchanan	Grassley	McDade
Burgener	Guyer	McDonald
Burke, Mass.	Hagedorn	McFall
Burleson, Tex.	Haley	Macdonald
Burlison, Mo.	Hamilton	Mahon
Byron	Hansen	Mann
Carter	Hastings	Martin
Clausen, Don H.	Hayes, Ind.	Matsunaga
Clawson, Del	Hébert	Mazzoli
Cohen	Hicks	Melcher
Daniel, Dan	Hightower	Milford
Daniel, Robert W., Jr.	Hillis	Miller, Ohio
	Hinshaw	Mineta
	Holland	Mink
	Holt	Montgomery
	Howe	Moore
Moorhead, Calif.	Rose	Symms
Morgan	Roush	Taylor, N.C.
Myers, Pa.	Rousselot	Teague
Natcher	Roybal	Thone
Nichols	Ruppe	Thornton
Oberstar	Russo	Treen
Obey	Ryan	Tsongas
Passman	Santini	Van Deerlin
Patman	Sarasin	Vander Jagt
Patterson, Calif.	Satterfield	Vigorito
Perkins	Schneebeli	Waggonner
Poage	Seiberling	Walsh
Pressler	Shriver	Wampler
Preyer	Sikes	White
Price	Slack	Whitten
Quie	Smith, Iowa	Wiggins
Randall	Stanton, J. William	Wilson, Bob
Regula	Stanton, James V.	Wilson, Charles, Tex.
Risenhoover	Stark	Winn
Roberts	Steed	Wright
Robinson	Stephens	Yatron
Rogers	Sullivan	Young, Fla.
Roncalio	Symington	Young, Tex.
		Zablocki

NOT VOTING—191

Abdnor	Evins, Tenn.	Mills
Abzug	Fascell	Minish
Adams	Fithian	Mitchell, N.Y.
Addabbo	Florio	Mollohan
Andrews, N.C.	Flowers	Moorhead, Pa.
Ashbrook	Flynt	Motti
Aspin	Ford, Mich.	Murphy, Ill.
Badillo	Ford, Tenn.	Murphy, N.Y.
Bafalis	Fountain	Murtha
Baldus	Fraser	Myers, Ind.
Barrett	Frenzel	Neal
Beard, R.I.	Frey	Nix
Beard, Tenn.	Fulton	O'Brien
Bedell	Fuqua	O'Hara
Bell	Gaydos	O'Neill
Bergland	Gilman	Patten
Biaggi	Ginn	Pattison, N.Y.
Boggs	Goldwater	Pepper
Boland	Hammer-schmidt	Peyser
Bowen	Hanley	Pickle
Brademas	Harrington	Pike
Breaux	Harsha	Pritchard
Brinkley	Hawkins	Quillen
Brooks	Hays, Ohio	Railsback
Broomfield	Hefner	Rangel
Burke, Fla.	Heinz	Reuss
Burton, John	Helstoski	Rhodes
Butler	Henderson	Rinaldo
Carney	Horton	Rodino
Casey	Howard	Roe
Cederberg	Hubbard	Rosenthal
Chappell	Hughes	Rostenkowski
Clancy	Hungate	Runnels
Cleveland	Hutchinson	St Germain
Cochran	Jarman	Schulze
Collins, Tex.	Johnson, Calif.	Sebelius
Conable	Jones, Ala.	Shipley
Conlan	Jones, Tenn.	Shuster
Conte	Jordan	Simon
Conyers	Karth	Sisk
Corman	Kelly	Skubitz
Cotter	Ketchum	Smith, Nebr.
Coughlin	Keys	Snyder
Crane	Kindness	Spence
D'Amours	Koch	Staggers
Daniels, Dominick V.	Landrum	Steelman
Davis	Lent	Steiger, Wis.
Delaney	Levitas	Stratton
Dellums	Litton	Stuckey
Dent	Lloyd, Calif.	Talcott
Derwinski	Lott	Taylor, Mo.
Devine	Lujan	Thompson
Diggs	McClory	Udall
Dodd	McCormack	Ullman
Downing	McEwen	Waxman
Duncan, Tenn.	McKay	Whitehurst
Early	McKinney	Wilson, Charles H., Calif.
Edgar	Madigan	
Edwards, Ala.	Mathis	Wolff
Edwards, Calif.	Meeds	Wydler
Eilberg	Metcalfe	Wylie
Esch	Meyner	Yates
Eshleman	Michel	Young, Ga.
Evans, Ind.	Mikva	Zeferetti

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MINK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and, the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 25) 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, had come to no resolution thereon.

GENERAL LEAVE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks in connection with the debate on H.R. 25.

The SPEAKER. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

ENDORSING THE SPELLMAN AMENDMENT TO BAN STRIP MINING ON SLOPES OF MORE THAN 20 DEGREES IN STEEPNESS

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the Washington Post included an editorial in this morning's edition, with much of which I agree.

The editorial indicated that some positive action must be taken by this Congress in the area of strip mining and in particular, the editorial underlined the necessity for action in those steep-slope areas of over 20 degrees, where the most devastating damage occurs from strip mining.

Certainly the experience throughout Appalachia is one of the major reasons why the issue of strip mining comes to Congress. Once again this afternoon the Congress is finally coming to grips with this legislation.

I certainly hope that when the time occurs, strong support from both sides of the aisle will come for the Spellman amendment which will be offered by our colleague the gentlewoman from Maryland (Mrs. GLADYS SPELLMAN) to ban strip mining on those slopes more than 20 degrees in steepness.

Mr. Speaker, I include with my remarks the editorial of this morning's Washington Post.

The editorial referred to follows:

A NEW EFFORT AGAINST STRIP MINING

Although efforts have been made for four years to pass federal legislation against strip mining, it appears now that the Congress has finally realized the need for controls. On Wednesday, the Senate gave strong approval—84 to 13—to a bill that has a number of strengths. A major breakthrough is the provision that protects from strip mining certain essential agricultural lands in vital areas of the West. Individual ranchers and farmers have been raising their voices for years on this issue, making the case that using the land for the long-term production of food is more important than the one-shot use of the land for energy. Sen. Lee Metcalf (D-Mont.), the bill's floor manager, deserves credit for proposing to prevent the strip miners from ravaging crop-lands and hay-lands in the vital valleys in the Western states.

In the House, which is scheduled to take up debate today and vote Monday, several opportunities exist to strengthen the legislation. It is important, for example, that no new permits be given for strip mining on slopes above 20 degrees. The people living among the hills and mountains of central Appalachia have already been sufficiently victimized by strip mining operations, and deserve protection from future assaults. As for money to restore land that strippers left for rubble once the coal was extracted, the House bill now asks for 35 cents a ton of strip mined coal. Efforts will be made to raise this to 50 cents; the argument is that with a larger reclamation fund, not only will jobs be opened up but the land itself will recover its potential for agricultural, industrial and recreational uses. Because the nation has never had a federal strip mine bill, questions are being raised about the suitability of the Interior Department to enforce the regulations; a strong case is being made that EPA should be given the responsibility, on the ground that Interior is too tied to a philosophy of coal development.

In the push for new sources of energy, no one is advocating that coal be ignored. In fact, Russell E. Train, administrator of the Environmental Protection Agency, has said that because the nation's total coal supply is overwhelmingly in deep mines it makes sense, both economically and environmentally, to expand underground mining. Sen. Mike Mansfield (D-Mont.), noting the rush to strip mine the Western coalfields, has asked: "What is going to happen to the vast quantities of mineable coal in the Eastern part of the United States?" Mr. Train and Sen. Mansfield go to the essence of the issue.

It is disappointing that four years have passed with no decisive action on a federal strip mine bill. During that time the strip miners have not been idle. As the land is torn up an average of 1,000 acres a week, the public waits for Congress to offer some long overdue controls.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 25

By Mr. BAUCUS:

(Section 506(a))

Page 232, line 22, a new paragraph "(5)" as follows and renumber all subsequent paragraphs:

"(5) a detailed description of the proposed revegetation plan, including the identification of plant species and appropriate assurances that viable seeds will be available in sufficient quantities to ensure that the proposed revegetation plan will be achieved in compliance with the proposed timetable for reclamation;"

By Mr. EVANS of Colorado:

Beginning on page 238, strike out line 25 and all that follows down through line 6 on page 239 and insert in lieu thereof:

"(A) not adversely affect, or be located within, alluvial valley floors, underlain by unconsolidated stream-laid deposits where farming or ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands, or croplands; or".

"PROTECTION OF WATER RIGHTS

"SEC. 717. (a) In those instances in which it is determined that a proposed surface coal mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

"(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

"(2) evidence of the capability and willingness to provide substitute water supply at least equal in quality, quantity, and dura-

tion to the affected water rights of such owners.

"(b)(1) An owner of water rights adversely affected may file a complaint detailing the loss in quantity or quality of his water with the regulatory authority.

"(2) Upon receipt of such complaint the regulatory authority shall—

"(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 517;

"(B) within 90 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

"(C) order the mining operator to replace the water within a reasonable time in like quality, quantity, and duration if the loss is caused by the surface coal mining operations, and require the mining operator to compensate the owner of the water right for any damages he has sustained by reason of said loss; and

"(D) order the suspension of the operator's permit if the operator fails to comply with any order issued pursuant to subparagraph (C)."

By Mr. HECHLER of West Virginia:

Page 210, line 6, strike out "515(b)(19), and 515(d) of this Act," and insert in lieu thereof "and 515(b)(19) of this Act. No such permit shall be issued on or after such date of enactment for surface coal mining operations on a steep slope (as defined in section 515(d)(4)) or on any mountain, ridge, hill, or other geographical configuration which contains such a steep slope."

Page 288, between lines 8 and 9, insert the following:

"(4) the proposed surface coal mining operation does not include mining on any steep slope (as defined in section 515(d)(4)) or on any mountain, ridge, hill, or other geographical configuration which contains such a steep slope."

And redesignate the following paragraphs accordingly.

Page 266, after line 3, insert the following new subsection:

"(4) with respect to underground mines opened after the date of enactment of this Act, to the maximum extent physically and technologically possible and consistent with the safety of miners, incorporate practices of backstowing or returning to mine voids, all mine wastes and coal processing plant tailings;"

And redesignate the following paragraphs accordingly.

Page 256, line 11, after the period, insert the following:

"No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment."

Page 267, line 2, after the period, insert the following:

"No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment."

Page 336, line 8, insert the following new section:

"SEC. 713. (a) In those instances in which the surface owner is not the owner of the mineral estate, the application for a permit face coal mining operations and the Federal Government is not the owner of said mineral estate, the application for a permit shall include the written consent by the owner or owners of the surface lands involved and any person who holds an interest in such surface including but not limited to the lessees of said surface.

"(b) In those instances where the mineral estate proposed to be mined by the surface mining operations and the surface is owned by the same person and there exists an interest in the surface in the form of lease or permit, the application for a permit shall include the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land.

"(c) No owner shall evict a lessee for the purpose of authorizing surface mining without a minimum of one year's notice and without providing just compensation for any improvements of said lessees. If the owner and said lessees are unable to reach just agreement on just compensation, the district court in which the said surface area is located shall have jurisdiction without regard to the amount in controversy or diversity of citizenship to consider and decide any action filed by lessees to determine such compensation."

Page 263, line 15, after the word "cut", strike all through the word "mat" on line 23, inclusive.

Page 294, line 21, strike the words "boundaries of any national forest" and insert the following: "the National Forest System".

Page 258, line 12, strike subsection (14) inclusive, and insert in lieu thereof the following subsection;

"(14) segregate all acid-forming materials, toxic materials, and materials constituting a fire hazard and promptly bury, cover, compact, and isolate such materials during the mining and reclamation process to prevent contact with ground water systems and to prevent leaching and pollution of surface or subsurface waters."

Page 173, line 14, strike all of subsection (d) and insert therein the following:

"(d) while responsibility for regulation of coal surface mining rests with the States, the absence of effective regulatory laws and effective enforcement in many States may require that the Federal Government assume responsibility;

"(e) effective regulation of surface coal mining operations by the States and by the Federal Government in accordance with the requirements of this Act is an appropriate and necessary means to prevent the adverse social, economic, and environmental effects of such mining operations;"

Redesignate the following paragraphs accordingly.

Page 174, line 4, insert the following new subsection:

"(f) there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground mining, on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality;"

Redesignate the following paragraphs accordingly.

On page 180, between lines 8 and 9, insert the following new subsection:

"(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 person or persons are not needed for such inspections under the 1969 Act."

Page 213, between lines 16 and 17, insert the following sentence:

"No funds shall be appropriated for Titles III and IV of this Act until the Secretary publishes in the Federal Register the actions he has taken to fully implement the Federal enforcement program required by this subsection."

By Mr. RUPPE:

Page 194, line 11, after the word "of", strike out the words "thirty-five" and insert the word "ten". On line 12, place a period after the word "produced" and strike the remainder of the sentence through the period on line 15.

Page 194, line 22, strike the word "unless" and all of lines 23, 24, and 25 on page 194. Strike lines one and two on page 195.

Page 223, line 2, strike the period, and insert a comma in lieu thereof, and add the following phrase *"provided,* That with respect to coal to be mined for use in a synthetic fuel facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel facility is initiated."

Page 238, line 22, strike out all of line 22 through line 24, and on page 239, strike out all of lines 1 through 21, and insert the following:

"(5) the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would not have a substantial adverse effect on croplands or haylands overlying alluvial valley floors where such croplands or haylands are significant to the practice of farming or ranching operations."

Page 256, strike lines 1 through 11 and substitute the following:

"(13) With respect to the use of existing or new impoundments for the disposal of coal mine wastes, coal processing wastes, or other liquid or solid wastes, incorporate the best engineering practices for the design, location and construction of water retention facilities and construct or reconstruct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public; that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constitutents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams, or settling ponds; provided that the Secretary shall consult with the Corps of Engineers and the Secretary of Agriculture with respect to standards developed under this paragraph."

(Conforming Amendment): Page 266, strike lines 16 through Page 267, line 2, and substitute the following:

"(5) With respect to the use of existing or new impoundments for the disposal of coal mine wastes, coal processing wastes, or other liquid or solid wastes, incorporate the best engineering practices for the design, location and construction of water retention facilities and construct or reconstruct such facilities to insure that the construction will be so designed to achieve necessary stability with an adequate margin of safety to protect the health and safety of the public; that leachate will not pollute surface or ground water, and that no mine waste such as coal fines and slimes determined as unsuitable for construction constituents by sound engineering methods and design practices are used in the construction of water impoundments, water retention facilities, dams, or settling ponds; provided that the Secretary shall consult with the Corps of Engineers and the Secretary of Agriculture with respect to standards developed under this paragraph."

Page 281, line 17, after the word "Constitution", add the word "and" and strike the remainder of line 17 and all of lines 18, 19, and 20, and add the following new subsection:

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

(Conforming amendments):

On page 282, strike all of line 9 except the semicolon and the word "or".

On page 282, line 13, strike the words "or the" and strike line 14 through the word "order" and add the following: "or any rule, regulation, or permit issued pursuant to this Act"

On page 284, line 1, strike the words "the provisions of this Act, or of" and after the word "any" add the word "rule," and insert the word "or" after the word "order".

On page 284, line 2, strike the words "or

plan of reclamation issued by the Secretary" and add the words, "issued pursuant to this Act,".

Page 311, line 21, after the word "any" insert the word "Federal".

By Mrs. SPELLMAN:

Page 210, line 6, strike out "515(b)(19), and 515(d) of this Act." and insert in lieu thereof "and 515(b)(19) of this Act. No such permit shall be issued on or after such date of enactment for surface coal mining operations on a steep slope (as defined in section 515(d)(4)) or on any mountain, ridge, hill, or other geographical configuration which contains such a steep slope."

Page 238, between lines 8 and 9, insert the following:

(4) the proposed surface coal mining operation does not include mining on any steep slope (as defined in section 515(d)(4)) or on any mountain, ridge, hill or other geographical configuration which contains such a steep slope.

And redesignate the following paragraphs accordingly.

By Mr. STEIGER of Arizona:

Page 209, line 19, strike out all of line 19 through line 24, and on page 210, strike out all of lines 1 through 17, and insert the following:

"SEC. 502(a) On and after ninety days from the date of enactment of this Act, no person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on land on which such operations are regulated by a State regulatory authority unless such person has obtained a permit from such regulatory authority. All such permits shall contain terms requiring compliance with the mining and reclamation performance standards set forth in 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. The regulatory authority shall act upon all applications for such permits within forty-five days from the receipt thereof.

"(b) Within Sixty days from the date of enactment of this Act, the State regulatory shall review and amend all existing permits in order to incorporate in them the mining and reclamation performance standards specified in subsection 502(a). On or before one hundred and twenty days from the date of issuance of such amended permit, all surface coal mining operations existing at the date of enactment of this Act on lands on which such operations are regulated by a State regulatory authority shall comply with such mining and reclamation performance standards with respect to lands from which the overburden and the coal seam being mined has not been removed."

Redesignate the subsections accordingly.

Page 211, line 12, strike out all of line 12, page 211, thru line 22 on page 213 and insert the following:

"(f) The Secretary shall issue regulations, to be effective one hundred and twenty days from the date of enactment of this Act, establishing an interim Federal evaluation and enforcement program. Such program shall remain in effect in each State in which there are surface coal mining operations regulated by a State regulatory authority until the State program has been approved and implemented pursuant to section 503 of this Act or until a Federal program has been prepared and implemented pursuant to section 504 of this Act. The evaluation and enforcement program shall—

"(1) include inspections of surface coal mining operations on a random basis without advance notice to the mine operator, for the purpose of evaluating State administration of, and ascertaining compliance with the mining and reclamation performance standards specified in subsection 502(a). Except as provided in section 521(a)(2), the Secretary shall request the appropriate State regulatory authority to take such enforcement action as may be necessary to correct violations identified during inspections. If the State regulatory authority fails to act within ten days from the date of such request, the Secretary may order any necessary enforcement action pursuant to section 521 and shall order any necessary enforcement action pursuant to section 521(a)(2).

"(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of the mining and reclamation performance standards specified in section 502(a) during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such persons when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

"(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

"(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made; and

"(5) provide that moneys authorized by section 712 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the States for conducting those inspections in which the standards of this Act are enforced and for the administration of this section.

"(g) The provisions of this section shall be applicable to surface coal mining and reclamation operations on lands on which such operations are regulated by a State regulatory authority until a State program is approved in accordance with the provisions of section 503 of this Act or until a Federal program is promulgated in accordance with the requirements of section 504 of this Act."

(Conforming amendment): Title V, page 286, Section 521(a)(4), line 24, strike the words "section 502 or"

Page 238, line 7, after the word "designed" insert the phrase: "to the maximum extent practicable"

(Conforming amendment): Page 254, line 22, after the word "preserving" insert the phrase: "to the maximum extent practicable".

Page 259, line 17, page 259, strike line 17 through page 263, line 2 and substitute the following:

"(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 this subsection.

"(2) 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 to the requirements for regrading, backfilling, and spoil placement as set forth in subsection 415(b)(3) or 415(d)(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 granting of such proposed variance is essential to obtaining the equal or better economic or public use;

"(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;

"(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 forty-five days to review and comment on the proposed use;

"(F) a public hearing, if requested after appropriate notice, 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.

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

"(A) the reclaimed area is stable;

"(B) no damage will be done to natural watercourses; and

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

"(4) 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 it deems to be necessary.

"(5) All variances 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."

Page 294, line 21, strike out all of lines 21 thru 23 and substitute the following:

"(2) on any Federal lands within the boundaries of any national forest: *Provided*, That such prohibition shall not be applicable to surface operations and impacts incident to an underground coal mine: *Provided further*, That the Secretary of Agriculture may set aside the prohibition on surface coal mining operations for a specific area or areas if after due consideration of the existing and potential multiple resource uses and values he determines such action to be in the public interest. Surface coal mining on any such areas shall be subject to the provisions ap-

plicable to other Federal lands as contained in section 523;"

(Conforming amendment): line 19, page 296 after "pursuant to the Act," add the following: "With respect to National Forest System lands, the Secretary shall include in permits, leases, and contracts those conditions and requirements deemed necessary by the Secretary of Agriculture. The Secretary of Agriculture shall administer the provisions of such permits, leases, or contracts relating to reclamation and surface use, and is authorized to enforce such provisions."

Page 305, line 1, strike all of Section 529, consisting of lines 1 through 24, and lines 1 through 3 on page 306.

Page 315, line 17, after line 17, add the following new subsection and reletter accordingly:

"(b) In order to provide greater certainty in implementing and administering this Act, the Secretary is authorized to define, pursuant to his general rulemaking authority, such other terms used in this Act as may be susceptible to more than one reasonable interpretation, provided that such definitions are not inconsistent with specific provisions of the Act."

Page 328, line 15, strike all of Section 714 through line 4, page 335 and add the following new section:

"SEC. 714. Nothing in this Act shall be construed as increasing or diminishing any property rights held by the United States or by any other land owner."

(Conforming amendments): Strike Section 102(b), page 174, line 23 through line 2, page 175.

Strike Section 512(b)(8), page 243, lines 7 through 9.

On page 307, line 24, strike the comma, insert a period, and strike the remainder of the sentence.

March 14, 1975.

By Mr. WIRTH:

Page 294, Line 21, strike the words: "boundaries of any national forest" and insert the following: "the National Forest System."

H.R. 4296

By Mr. KREBS:

Page 2, line 2, strike the figure "48 cents" and insert in lieu thereof the figure "45 cents".

Page 2, line 6, strike the figure "40 cents" and insert in lieu thereof the figure "38 cents".

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SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 25) 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.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 25, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on Friday, March 14, 1975, it had agreed that title II of the committee amendment in the nature of a substitute, ending at line 8 on page 180, would be considered as read and open for amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia:

On page 180, between lines 8 and 9, insert the following new subsection:

"(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 person or persons are not needed for such inspections under the 1969 Act."

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, I did not hear what the Clerk read. Is the amendment which was just offered to title II, or is it to title III of the bill?

The CHAIRMAN. The Chair will state that the amendment is to title II.

The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr.

Chairman, at a time when we are expanding the production of coal in this Nation and at a time when the Mining Enforcement and Safety Administration has asked for additional inspectors, I think it would be dangerous to divert these mine safety inspectors for the purpose of inspecting surface mines under the legislation we are considering.

As a matter of fact, I have in my hand a contract to retrain mine safety inspectors as strip mine inspectors. It would seem to me very unfortunate if we utilized those trained personnel, who are trained to protect the lives and safety of coal miners, for the purpose of inspecting strip mines.

I have a release from the Department of the Interior, dated March 3, 1975, stating "The Interior Department's Mining Enforcement and Safety Administration is proposing a substantial increase in enforcement, education, and technical activities during the coming fiscal year." MESA is seeking additional inspectors for mine safety purposes. In addition, MESA is seeking additional funds of $600,000 to increase the assessments staff by 30 to collect more fines from coal operators for violations of the Federal Coal Mine Health and Safety Act of 1969. A cutback in personnel of MESA at a time when coal production is being stepped up would be disastrous. We cannot comprise the safety of coal miners.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have inspected the amendment, and its purpose, which is to make sure that there is not a draining off of the employees now inspecting underground mines, is an admirable objective. It seems to me there is sufficient flexibility in the amendment that it would strengthen the bill.

Therefore, I am prepared to support the amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank the gentleman from Arizona.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: On page 180, between lines 8 and 9 insert the following new subsections:

"(d) 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.

"(e) 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, except that an employee may own a total of not more than 100 shares of stock of companies which have a direct or indirect interest in such operations and which are listed on any securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Act of June 6, 1934 (48 Stat. 885; 15 U.S.C. 78f): *Provided*, That such employee shall file with the Director a written statement concerning such ownership which shall be available to the public. 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 (1) within sixty days after enactment of this Act publish regulations, in accordance with 5 U.S.C. 553, 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."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, my amendment to section 201 of H.R. 25 is printed in the RECORD of March 13, 1975, pursuant to rule XXIII, clause 6.

The amendment would add two new subsections:

The first subsection is in the nature of a technical change to insure that the new Office of Surface Mining Reclamation and Enforcement will have its forms and questionnaires approved by the General Accounting Office, rather than the Office of Management and Budget. The GAO is now doing this for a number of regulatory agencies—for example, the FPC, ICC, FTC, et cetera—pursuant to provisions we adopted in the 1973 Alaska pipeline legislation.

The second subsection concerns the holding of any financial interests in coal mines by Federal employees administering this act.

In 1879, Congress enacted 43 U.S.C. 31, which states:

The Director and members of the Geological Survey [of the Interior Department] shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.

According to a March 3, 1975, report by the Comptroller General (FPCD–75–131) entitled "Effectiveness of the Financial Disclosure System For Employees of the U.S. Geological Survey," the Geological Survey has uniformly interpreted the above statute to mean that:

No USGS employee may own an interest in oil or mining enterprises.

Despite this interpretation the GAO found on March 3, 1975 (p. 5):

A supervisory mining engineer has owned stock since 1968 in seven mining companies (four operating in the United States and three in foreign countries).

A supervisory petroleum engineer in New Mexico has owned oil and gas interests in New Mexico and Texas since 1971.

An Administrative geologist owned stock in 12 companies with oil or mining interests.

A supervisory petroleum engineer, empowered to suspend oil company operations on leased lands if operations were not properly conducted, has owned stock in Mobil Oil Company, Standard Oil of California, and Standard Oil of New Jersey since 1971.

In essence, the GAO found that the Interior Department is not effectively enforcing the 1879 law or the President's 1965 Executive Order 11222 on financial disclosure by Government employees, in part, because the law and Executive order have no teeth.

I note from a March 10, 1975, letter to Senator HENRY M. JACKSON, that the Geological Survey has belatedly taken administrative steps to enforce the 1879 law, but I stress it has no teeth.

Incidentally, Congress has applied the 1879 law to the Bureau of Land Management (43 U.S.C. 31) and adopted a similar law (30 U.S.C. 6) for the Bureau of Mines.

My amendment will prohibit employees administering this bill from having a financial interest in coal mining operations, with one limited exception. My amendment would let an employee hold up to a total of 100 shares of stock in companies having interests, direct or indirect, in coal mining operations if such companies' stock is listed on a securities exchange registered with the Securities and Exchange Commission and if such employee files a statement showing such holdings, which such statement will be available to the public. The amendment would require that the Director of the new Office of Surface Mining Reclamation and Enforcement enforce this requirement and file an annual report to Congress on such enforcement. My amendment would also provide a penalty, upon conviction, for knowing violations of this prohibition.

The amendment applies to all such employees, because many Interior employees at such levels as GS–5 and GS–7 and GS–9 currently have enforcement duties in the energy area—for example, coal mine inspectors and trainees. Also the Geological Survey, in its March 10, 1975, letter said, that it now applies the 1879 law to all its employees, at all levels and positions.

If the Congress in 1879 believed such a prohibition essential then, imagine what it would believe today in the light of recent scandals.

I want to prevent future scandals. Federal employees administering this law will be able to have financial interests, and so forth, in many corporations, but not those with coal mining interests. I think this is appropriate.

I urge adoption of my amendment.

I include the following:

GEOLOGICAL SURVEY,
Reston, Va., March 10, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior, and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The following actions have been taken to resolve the issues raised by the GAO report of March 3, 1975, on the Effectiveness of the Financial Disclosure System for Employees of the U.S. Geological Survey:

On January 24, I directed the Personnel Officer to inform any employee who has reported financial holdings in oil or mining enterprises anywhere in the Nation to divest themselves of these holdings within 90 days. All such employees have been notified.

By memorandum of January 27, addressed to the Departmental Counselor, I requested

clarification from the Solicitor on five questionable areas relating to the interpretation of the Survey's Organic Act.

I issued a Survey Administrative Digest, dated March 5, 1975, to all employees, setting forth the provisions of the Survey's Organic Act and our interpretation of the Act which states that no Survey employee, spouse, minor child, or other relative living in his immediate household, shall own any interest in oil or mining enterprises.

I have approved a memorandum to be sent to each employee of the Survey, requiring him or her to certify that they do not have holdings in violation of our regulations.

I have asked the Departmental Counselor to have the Solicitor review each case that was identified in the GAO report for a determination of conflict of interest.

I am requesting authority from the Civil Service Commission to require employees in certain key positions below the GS–13 level to submit a Confidential Statement of Employment and Financial Interest (Form DI–212).

We are exploring the possibility of an outside expert or a panel of experts on conflict of interest to make a broad study of the Survey's Organic Act, responsibilities, and regulations in light of present-day concerns, to determine if changes in the Survey's conflict of interest regulations are required.

We will rewrite the procedures for the Survey's Financial Disclosure System to provide more specific guidelines and higher level review.

We are considering a system to record oral communications between Survey officials and outside persons, similar to the one used by the Federal Energy Administration.

Copies of the documents which affected the first five actions are enclosed.

Additionally, the Secretary of the Interior has directed an immediate, independent, Department-wide review to verify that all cases of apparent or real conflict of interest or violations of Organic Act restrictions have been identified and promptly corrected. This will include verification of the actions taken by the Survey as a result of disclosures in the GAO report. The Secretary has also directed that the Department's guidelines and procedures relating to conflict of interest be improved and republished.

I will be pleased to discuss these matters with you at your convenience.

Sincerely yours,

V. E. McKELVEY,
Director.

GEOLOGICAL SURVEY,
Reston, Va., March 10, 1975.

MEMORANDUM

To: All employees.
From: Director.
Subject: Conflict of interest.

Your attention is invited to the following provisions of Survey Manual Chapter 5, Part 370.735.3, Saturday Restrictions on Survey employees:

"The Organic Act of March 3, 1879, (43 USC 31) which established the Geological Survey, imposes the following restriction on Survey employees: 'The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.'

"The Survey considers this prohibition to be applicable to all employees and to be nationwide in its coverage. No Survey employee shall own interest in oil or mining enterprises. However, he is not precluded from ownership of stock in companies with principal interest in fields other than the mining or production of materials generally classed as mineral resources."

Considering the sensitivity of the Geological Survey's involvement in matters related to the mineral industries, and the recent widespread publicity resulting from a General Accounting Office investigation, I consider it essential that we reaffirm the Survey's long-standing policy of prohibiting *all* members of the Geological Survey from owning *any* interest in oil or mining enterprises or land with mineral wealth. It is equally imperative that there not be the slightest hint of our employees' having such interest.

You must, therefore, review your financial interests to insure that they are not now in violation of the Survey regulations cited above. Some holdings, not prohibited at the time of purchase, may have undergone changes that now cause them to be subject to the prohibitions. Upon completion of your review, you should sign the attached certification and return it within 90 days through your supervisor to your Division or Office Chief. Division and Office Chiefs will forward all certifications to the Bureau Personnel Officer.

If your spouse, minor child, or other relative, resident in your household, has financial holdings that are in conflict with the Survey regulations, the prohibitions apply equally to them. You must dispose of all such holdings, whether held by you or by them, within 90 days from the date of receipt of this memorandum.

If there are mitigating circumstances that make it difficult for you to dispose of property within 90 days, you may submit a request for an extension of time, citing the justification.

Thank you for your cooperation in this matter.

V. E. McKELVEY,
Director.

[U.S. Department of the Interior, Geological Survey]

CERTIFICATE

I have read the prohibitions (Survey Manual Chapter 5, Part 370.753.3) against Geological Survey employees owning or obtaining interest or holdings in oil or mining enterprises or land with mineral wealth. I understand that these prohibitions apply to me, my spouse, minor children, and any relative who may reside in my household. I certify that to the best of my knowledge I am not in violation of these prohibitions.

Signature.
Named typed or printed.
Branch or office.
Location.
Date.

MARCH 7, 1975.

MEMORANDUM

To: Department counselor.
From: Director.
Subject: Conflict of interest.

Transmitted herewith are copies of the handwritten notes provided to us by the GAO Auditor listing the names and financial holdings in violation of the Organic Act or possible conflict with official duties and the reasons therefore. Listed separately are employees receiving retirement income or pension plans from oil companies, foreign holdings which are considered in violation of the Organic Act because of our EROS Program, and those owning land with oil and mineral rights. A separate list of consultants was also provided.

It is requested that each violation be reviewed individually by the Solicitor's Office for a final determination of conflict under the provisions of the Organic Act.

W. A. RADLINSKI,
Acting Director.

GEOLOGICAL SURVEY,
March 5, 1975.

CONFLICT OF INTEREST

Continuing a policy unchanged for many decades, Part 370.735, Chapter 5.3 of the Geological Survey Manual states:

"The Organic Act of March 3, 1879, (43 USC 31) which established the Geological Survey imposes the following restriction on Survey employees: 'The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.'

"The Survey considers this prohibition to be applicable to all employees and to be nationwide in its coverage. No Survey employee shall own interests in oil or mining enterprises. However, he is not precluded from ownership of stock in companies with principal interests in fields other than the mining or production of materials generally classed as mineral resources."

In view of the Geological Survey's involvement in matters related to the mineral industries, it is essential that we maintain our long standing policy prohibiting any member of the Geological Survey from owning any interest in oil or mining enterprises anywhere in the nation. Section 20.735–43 of the Departmental Regulations Governing Responsibilities and Conduct of Employees states that: "The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee."

V. E. McKELVEY,
Director.

GEOLOGICAL SURVEY,
Washington, D.C., January 27, 1975.

MEMORANDUM

To: Personnel Officer, Geological Survey.
Through: Assistant Director for Administration.
From: Director, Geological Survey.
Subject: Employee financial interests.

Continuing a policy unchanged for many decades, Part 370.735, Chapter 5.3, of the Geological Survey Manual states:

"The Organic Act of March 3, 1879, (43 USC 31) which established the Geological Survey imposes the following restriction on Survey employees: 'The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.'

"The Survey considers this prohibition to be applicable to all employees and to be nationwide in its coverage. No Survey employee shall own interests in oil or mining enterprises. However, he is not precluded from ownership of stock in companies with principal interests in fields other than the mining or production of materials generally classed as mineral resources."

I understand from your January 21 memorandum to the Assistant Director for Administration that in applying this policy both the Solicitor's Office and the Office of Audit and Investigation have interpreted the Organic Act to allow for consideration of the individual's position, the extent of his holdings, and the possibility of substantial conflict. This conforms with what appears to be the intent of the Departmental Regulations Governing Responsibilities and Conduct of Employees (Sec. 20.735–14) which says in part that, "(a) An employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities;"

Considering, however, the sensitivity (in fact and in appearance) of the Geological Survey's involvement in matters related to the mineral industries, I consider it essential to maintain the Survey's longstanding policy prohibiting any member of the Geological Survey from owning any interest in oil or mining enterprises anywhere in the nation.

Please, therefore, advise any employee

known to you to hold any such interest to divest himself (or to place it in a blind trust) within a period of 90 days and to furnish you with a revised statement of his financial interests.

Please also prepare for the next issue of the Administrative Digest a reiteration of Survey regulations governing responsibilities and conduct of employees as renewed instructions to all members of the Survey.

V. E. McKELVEY,
Director.

GEOLOGICAL SURVEY,
Washington, D.C., January 27, 1975.

MEMORANDUM

To: Departmental Counselor.
From: Director, Geological Survey.
Subject: Employee financial interests.

In response to your January 24 memorandum, be assured that forms DI-212 and DI-213 will be accessible to GAO auditors.

Via the memorandum attached, I have asked that the Survey's longstanding policy prohibiting any member from owning any interest in oil or mining enterprises anywhere in the nation be maintained. In reviewing previous statements of this policy, the proscription in our Organic Act on which the policy is based (i.e. "The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey . . . ."), and the pertinent Departmental regulations (Sec. 20.735-14), I find some uncertainties that I ask you to clarify or to seek clarification from the Solicitor:

1. How is the word "lands" in the Organic Act of be interpreted?

2. How is the word "indirect" in Sec. 20.735-14 to be interpreted?

3. While "oil and mining enterprises," along with "mineral wealth," may be interpreted broadly to include water resources and geothermal energy, do these resources need to be specifically identified as part of the United States mineral wealth of which ownership is prohibited?

4. The Survey's policy states that employees are "not precluded from ownership of stock in companies with principal interests in fields other than the mining or production of materials generally classed as mineral resources." How is "principal" to be interpreted?

5. Are there additional fields of financial interest other than mineral wealth that should be prohibited areas of investment for specific groups of our employees—certain instrument and equipment enterprises for employees involved in procurement?

V. E. McKELVEY,
Director.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am inclined to support this amendment, but I would like to get a couple or three things clarified, if I can, regarding its intention.

Mr. DINGELL. I will be happy to reply.

Mr. UDALL. In the first place, I take it that the gentleman is trying to strengthen the conflict-of-interest laws and not trying to weaken or amend or change existing laws against conflict of interest on the part of Federal employees?

Mr. DINGELL. The gentleman is absolutely correct in that statement. I want to insure that they can and will be enforced, without being unduly harsh.

Mr. UDALL. Second, the reference to 100 shares of stock seems to suggest that it would be 100 shares total in any coal or energy companies.

Mr. DINGELL. The gentleman is absolutely correct on that point. It is 100 shares total for all such companies.

Mr. UDALL. My third question would be that the coverage of the language is intended to go to the coal conversion industries and to the gasification and liquefaction companies as well as companies which are simply mining coal; is that correct?

Mr. DINGELL. The gentleman is entirely correct on that point.

Mr. UDALL. With that understanding, Mr. Chairman, I am going to support the amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I ask this of the gentleman: First of all, what exactly would be defined as direct financing?

Mr. DINGELL. Interests in leases, beneficial interests in stock which are held in trust, beneficial interests in bonds and debts and family ownership in a mining concern, interests which are of benefit to the individual but do not necessarily appear as a matter of record and which do not involve necessarily direct ownership. It would, for example, include interests in mining firms that an oil or nonenergy company may have through various means.

Mr. RUPPE. If the gentleman will yield further, he indicates that under certain circumstances a 100-share limitation might be waived. Perhaps he could give us an indication of those circumstances, as indicated in his amendment, if he would.

Mr. DINGELL. The amendment here indicates that the Director could, as I understand it, under certain circumstances permit the individual—no, I apologize to the gentleman. I was in error on that point. I was in error. The Director of the new office cannot waive this statutory limitation. Only Congress can do that by another law.

Mr. RUPPE. If the gentleman will yield further, in other words, anyone who has a 100-share interest, whether that be the equivalent of $1,000 or $10,000 or whatever it may be, anyone who has any type of direct or indirect interest could not serve in the office or in any office performing a function under this act?

Mr. DINGELL. The gentleman is correct on that.

As I previously noted, the General Accounting Office reviewed enforcement by the Geological Survey of an 1879 law which is similar to the one I here propose, and the GAO found, for example, on page 4 of the GAO report, that 35 employees owned 97 securities which either violated the 1879 law of the Department of the Interior or which represented potential conflicts.

Then on the following page, on page 5, some further examples of serious questions of conflict of interest are cited, such as:

A supervisory mining engineer has owned stock since 1968 in seven mining companies;

A supervisory petroleum engineer in New Mexico has owned oil and gas interests in New Mexico and Texas since 1971; and

A petroleum engineer was receiving retirement income from and owned stock in a major oil company.

It is this investigation and a previous investigation by my subcommittee that prompted me to offer this amendment.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. RUPPE. Mr. Chairman, if the gentleman will yield still further, the other question I would have would be this:

Is it possible that many advisory agents within the Department of Interior could have from time to time a function or duty under the legislation? What I am getting at is how far within the Department of the Interior would the gentleman's amendment reach?

Quite frankly, because you have the primary responsibility certainly covered, that I wonder, first of all, whether there may be individuals within the Department of the Interior who would have a very indirect relationship to the acts, who might perform from time to time some advisory or information mission under the legislation, or responsibility, and whether, for that reason, it might not be extremely embracive and perhaps unfair, to bring an individual who might have only a cursory contact within the act, come within the gentleman's amendment?

Mr. DINGELL. There is always that possibility.

I would point out to my good friend that, if such a situation arose and if there would possibly be need for relief of some kind, then I would suspect that the Secretary would come forward to the Congress for the necessary statutory relief.

I might point out to the gentleman that the 1879 law currently applicable to the Geological Survey is applicable to all GS employees, regardless of grade or rank. Frankly, I doubt that there are any persons in Interior who will have a function under this bill that should be exempted from this requirement. It is just good sense to avoid possible conflicts.

Mr. RUPPE. Do we have any conflict of interest laws on the books today that would cover the Geological Survey situation?

Mr. DINGELL. There are statutes on the books at this time which relate to the Geological Survey employees, which unfortunately have not been properly enforced by the Geological Survey, as I have pointed out in the GAO audit, which is highly critical of the gross disregard by the Geological Survey of this law. Part of this lack of enforcement is the lack of any penalty for nonobservance of the law.

Mr. RUPPE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: Page [illegible], line 18, insert before the word "conditions" the following "and agriculture".

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Chairman, I have two similar amendments that do exactly the same thing, merely insert the word "agriculture," and I would ask unanimous consent that all three of the amendments may be considered en bloc.

The CHAIRMAN. The Clerk will report the remaining amendments.

The Clerk read as follows:

Amendments offered by Mr. RONCALIO: Page 175, line 13, strike after the word "provided" the following: "and strike a balance between of the environment" and insert in lieu thereof the following: "while protecting the environment and agricultural productivity,".

Page 197, line 5, strike after the word "wildlife" the following: "and".

Page 197, line 6, insert after the word "resources," the following: "and agricultural productivity".

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. RONCALIO. Mr. Chairman, all that these amendments do, I would like to say to my colleagues, is add the word "agriculture" or the words "agricultural productivity" to the general goals of the legislation so as to protect that particular segment of our society.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the proposed amendments certainly improve the bill, and I am agreeable to them.

Mr. RONCALIO. Mr. Chairman, I am grateful to the gentleman from Arizona. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wyoming (Mr. RONCALIO).

The amendments were agreed to.

The CHAIRMAN. Are there any further amendments to title II? If not, the Clerk will read.

The Clerk read as follows:

TITLE III—STATE MINING AND MINERAL RESOURCES AND RESEARCH INSTITUTE

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

SEC. 301. (a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, or center (hereinafter referred to as "institute") at one public college or university in the State, which has in existence at the time of enactment of this title a school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction or which establishes such a school of mines, or division, or department subsequent to the enactment of this title and which school of mines, or division or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction wherein education and research in the minerals engineering fields are being carried out and wherein at least five fulltime permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Governor of the State; and

(3) where a State does not have a public college or university with an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction, said advisory committees may allocate the State's allotment to one private college or university which it determines to have an eligible school of mines, or division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments, and training may include, without being limited to exploration; extraction; processing; development; production of mineral resources mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of the Federal and State governments, and other, and to avoid any undue displacement of mineral engineers and scientists elsewhere engaged in mining and mineral resources research.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title III be dispensed with, that it be considered as read, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued reading title III.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that section 301 be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAZZOLI: Page 181, line 9, change the word "five" to "four".

(Mr. MAZZOLI asked and was given permission to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Chairman, my amendment is a very simple amendment. I had earlier decided, and I have, of course, changed that decision now, to submit a more extensive amendment changing the criteria by which the schools and institutions would be allowed to qualify for money for coal and mining research.

But, after some conversations I have had, I have decided to make only one simple change, I would change the word "five" to "four", meaning that now schools would be qualified to apply for the money providing for mining research if they had four full-time faculty members. Otherwise section 301 remains exactly the same.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I should like to agree with the amendment. There was no intent on the part of the committee to discriminate against an institution that did have a progam of substantial instruction if they have only four faculty members, so I have no objection to this change. I accept the amendment.

Mr. MAZZOLI. I thank the gentlewoman.

I should like to indicate that the University of Kentucky, which has had since 1901 a program of education in mining and coal research, would under the present terms of the law not be qualified to even apply. My change does not, of course, guarantee UK or any other school any more of the research money. It simply puts them into the pot enabling UK to make an application and, of course, on a matching dollar-for-dollar basis.

I would like to extend further remarks with the gentlewoman from Hawaii. As I understand the University of Kentucky's particular situation, in the Department of Civil Engineering, which is part of the College of Engineering of the University of Kentucky, they have had for many years a program of mining research and engineering with four full-time faculty members.

Would the gentlewoman's feeling be that a department of civil engineering in a college of engineering wherein there were four full-time persons involved in teaching mining, would qualify under the terms of the criteria of section 301?

Mrs. MINK. If the gentleman will yield further, I would respond to the gentleman's inquiry, yes, very definitely. It would meet the criteria of a program of substantial instruction.

When the bill was originally drafted, it specified a school of mines, and the committee members felt that that was

too restrictive. Many colleges did not call their programs by that name, so we specifically wrote in, a division or department offering a program of substantial instruction, with the proviso that the Advisory Council would make the determination based upon the evidence. So my answer would be in the affirmative.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

I should like to ask the gentlewoman who just spoke if we include approved schools of civil engineering, we get the record straight. On that subject every engineering school in the country gets a part of the action, then. Every school that deals with science has some sort of civil engineering department. It is the most common engineering course of study in the country. So the language, then, of the title which, in my opinion, restricts those institutions to those having a school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction is vacated.

Mr. MAZZOLI. Mr. Chairman, the gentleman is on my time and I would like to answer. We still have the Advisory Committee on Mining and Minerals Resources Research which still has to make the final adjudication as to whether or not UK or any other school does have a substantial program. So, whether or not the applicant is a grab bag or an engineering school which is genuinely qualified is a determination that the Advisory Committee on Mining and Mineral Resources Research must make.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I concur in the gentleman's remarks and I endorse the amendment because I think there are many schools that have longstanding programs in this particular field and also the gentlewoman has said this is broadening the base.

Mr. MAZZOLI. I deeply appreciate the endorsement of the gentleman from Pennsylvania.

Mr. BRECKINRIDGE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kentucky (Mr. BRECKINRIDGE).

(Mr. BRECKINRIDGE asked and was given permission to revise and extend his remarks.)

Mr. BRECKINRIDGE. Mr. Chairman, I thank the gentleman for offering his amendment and I join with him in it and associate myself with his remarks.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. Chairman, I would like to conclude my remarks by saying that the State of Kentucky, for good or for bad, is the Nation's No. 1 coal producer and it seems to me it would be the irony of ironies if the State University of the No. 1 coal-producing State of the Union could not qualify for this money. I urge all members of the committee to vote for the amendment. It does substantial equity.

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would be happy to have the language of the bill stand on its own feet later on, but if there is any question later as to the meaning of the language in the bill or the meaning of the colloquy on the floor, I would say it is my personal opinion that the language in the bill does not provide financial assistance to every civil engineering school in the United States.

I want this to be completely and absolutely understood as my own personal opinion, because I would like to have the Members listen to the language on page 181 where it states:

> The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction wherein education and research in minerals engineering fields are being carried out . . .

So I might say there is only a certain amount of latitude given to that Advisory Committee. If we are to say that every engineering school in the country that has a large program in metals or engineering or mining would fill the requirement, then we would be simply writing language into the bill on the floor today that would give the Advisory Committee no course whatsoever but in effect to give certification to every civil engineering school in the United States. In my opinion that was not the desire of the Committee on the Interior at the time we undertook this legislation.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, it certainly is not my intention to make it possible for every school of civil engineering to qualify under this language. In response to the inquiry of the gentleman from Kentucky I simply said a college of engineering designated as such would have to have a program of substantial instruction in mining and minerals and engineering, for research to be conducted by that college or university they could qualify, but not that just a civil engineering school would be a way of meeting that qualification. They would still have to demonstrate a substantial instructional course.

The gentleman's point for having this criteria changed was because they have only four faculty members engaged in substantial instruction in this field and it was in that context that I accepted his amendment. Instead of five there will be four full-time faculty, but this in no way is diminishing the requirement for substantial instruction in mining and research.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. FENWICK: Page 180, line 9 through page 193, line 5, strike title III in its entirety.

(Mrs. FENWICK asked and was given permission to revise and extend her remarks.)

Mrs. FENWICK. Mr. Chairman, the purpose of title III of this bill is most laudable and I think nearly everyone in this Chamber supports its goals. Certainly I do. We all want to be sure that the United States has an adequate research base, the technological capability, and qualified manpower to avoid crises of energy supply, such as we experienced in 1973. We do, indeed, need to build up a qualified human resource of educated scientists and engineers. With a $23 billion deficit in 1974 from our imports of minerals and mineral fuels, it is imperative that we act to end our dependence on foreign sources of energy.

Although these goals are laudable, I question the wisdom of adding still another agency to those which are already engaged in the same work in the same field.

Sections 301, 302, and 306 authorize a total of $23 million in fiscal year 1975 for the State mining and mineral resources research institutes. This level is increased to $28.5 million in fiscal year 1976 and climbs quickly to $42 milion by 1981. This is a tota authorization of $241.5 million just for the research institutes.

I do not believe that this is wise or necessary. There is already Federal funding for the support of mineral engineering. The National Science Foundation annually offers $10 million for graduate fellowships in mineral engineering. Those interested need only apply. No one has applied this year.

The National Science Foundation also has an energy-related graduate traineeship program—the program had 172 trainees in 1974—funded at $2 million annually. The trainees conduct research at universities and institutes, with Federal support.

The Department of Health, Education, and Welfare also has a graduate fellowship program in domestic mining to the tune of $1.5 million a year.

Mining research is supported by the Federal Government through various agencies. The fiscal year 1976 budget for the Bureau of Mines, for example, is $40 million. Last year's ERDA budget was $387 million and this year it will be $311 million, according to the figures we have been given. Neary $283 million of the ERDA budget will go for coal liquefication and gasification and advanced research and demonstration projects. Why do we need an additional $35 million under section 713(c) of this bill for the same thing?

We should note that the private sector is investing $80 million a year on mining research also.

Mr. Chairman, I do not contend that we do not need a greater effort in our mining technology capability. I agree with the proponents of title III on this count.

I do not believe, however, that an elaborate system of federally funded research institutes and a multimillion research

and development program on alternate coal mining technology is necessary.

Neither do I think that we can continue to go against the principles enunciated in every single study of Congress and the Government. We cannot have a new agency, each one with some little part in doing research in the same field.

Now, I know that the legislation clearly says that this is not to overlap, that they are to undertake only research that is not being done elsewhere; but I would ask this House, with the Bureau of Mines having $46,200,000 in the 1974 budget for improved coal mining technology, why not add to that budget, if necessary, and have one coordinated place which is doing coal mining technology in all its aspects, instead of having another agency to disburse to another $40 million fund.

This is the problem that we have constantly. If the National Science Foundation is already funding institutes to train research scientists and engineers, why not add to that, so that we have one dispensing place for all this research and work. This is what I think is a bad move, much as I support this bill and believe in working for it.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee report, beginning on page 81, for Members who are interested, makes a very strong argument for the establishment of these mineral institutes. We have a very, very serious deficiency in our total minerals instruction program in this country.

Much of this difficulty stems from the inability of our schools and institutions to produce the technicians and the engineers and the scientists necessary for this program. Our country embarked in a major thrust in the scientific area with the challenge of Sputnik, and we put in billions of dollars in the training of scientists in that area of endeavor, forgetting the problems with regard to energy and the energy shortages which we are going to experience in this decade.

It seems to me that if we are going to pay attention to what this country is now so prominently concerned with, which is the energy deficiency, we have got to make sure that we have on board in private industry and in Government and in our research centers an adequate number of trained scientists, engineers, and technicians. This is the major thrust of title III.

We have research funds in title III because this is the way we attract students to these institutes, to these colleges. We are only going to be able to get these kinds of students into these programs if they have some research to undertake. We were quite aware of the problem of duplicating and have specifically cautioned against it four or five times in the bill. We are directing the colleges, directing the Secretary of the Interior, to make amply sure that these funds are not used to duplicate ongoing programs that are going to be undertaken by other departments of Government, by other agencies, and by private industry.

These funds are being very, very carefully directed into the universities. We have been extremely modest in this country in doing something about coal research, about the necessity to do into deep mining, and to find the technology to bring out this coal for the benefit of this country instead of stripping the surface of the Earth. We should accept this title, which is a very modest step forward.

Mr. McKAY. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. Mr. Chairman, I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, the gentlewoman is absolutely correct. In testimony before the Appropriations Interior Committee last year, it was noted that we were putting out about one-fifth of the metallurgical engineers this country needed. We are turning out thousands of civil engineers, but metallurgical engineers who know about mining and mining problems at a time when we need to be concerned about our environment as well as energy, we are not turning them out.

To assume that students will normally go where there is need does not always occur, and they are not doing it. The graduate schools are having to go out and bid and entice people to come to these schools, to go into these fields.

There are only about 13 metallurgical schools in this country worthy of the name. To expand beyond that, I think, would be excessive. In fact, if we go one per State is beyond what is really needed to be done, but we need to put something into those schools for our need now.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I think I have perhaps not stated my case very clearly. I do not object to the fact that we do need metallurgical and other mining engineers; it is the establishment of another agency, in addition to the ERDA, in addition to the National Science Foundation, and in addition to the Bureau of Mines.

Mrs. MINK. Mr. Chairman, in response to the gentlewoman's criticism, if, in fact, our commission to the National Science Foundation and all these other agencies in the past had been in fact followed, we would not be in this predicament today, without the trained personnel to meet this crisis. They should have been able to fulfill the needs of this country and this decade and provide the training funds necessary to take care of this; but they have failed miserably.

The vice president of Consolidated Coal projected that next year he needed 1,075 engineering experts in his one company alone, and there were only 300 graduates throughout the whole country.

Mrs. FENWICK. I understand that, but we have $46 million for coal mining technology in ERDA alone and $10 million for scholarships in NSF. Why not add to that?

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the last word.

(Mr. MYERS of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. MYERS of Pennsylvania. Mr. Chairman, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. The point I am trying to make is not that we do not need money. The point is that if we have the Bureau of Mines doing coal mining technology, I think it would be wiser to put whatever money we need and insist that it be used to develop those fields by the Bureau of Mines, which have not been developed, instead of having one group doing some technology and two other groups doing other parts. That is what I am arguing for.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to ask the gentlewoman from Hawaii whether the committee has considered the fact that other committees in this House are accelerating or have accelerated the rates of expenditures in this field of subsidizing engineering and technical schools. Did the gentlewoman get the figures from these other committees?

Mrs. MINK. Which rates?

Mr. MYERS of Pennsylvania. The rates at which we are accelerating the funding for these expansions of the educational programs in other House committees.

Mrs. MINK. My knowledge is that there is no current funding whatsoever. We have a letter here, which we have received this morning from the Deputy Assistant Administrator for Energy Research, and he writes that there is no mining research funds in fiscal year 1976, none requested for fiscal year 1975, and none requested for the 1976 budget. So we are not talking about any major efforts being made by a new agency in this one area which is so critical. It seems to me that if we are going to really turn to coal, as everybody is saying, this is the way we must go. We are going to need the trained personnel and the skills required to do this job.

Mr. MYERS of Pennsylvania. In other words, the gentlewoman is saying that her committee completely ignored any other funds from any other sources?

Mrs. MINK. No.

Mr. MYERS of Pennsylvania. If there are funds to be authorized and appropriated from other sources, should they offset any authority to spend through this bill?

Mrs. MINK. No, I am not saying that we ignored the other areas. We are quite cognizant of the fact that now we finally realize we are in an energy predicament. Everybody is trying to come up with a program overnight, and so we very carefully wrote in title III that, in spending these funds for research that are being given to the institutions, very careful attention be paid to avoid duplication of research activities by other agencies of Government.

If the gentleman will yield further, research funds are essential if the concept of the institutions is going to succeed.

Mr. MYERS of Pennsylvania. The point which the gentlewoman from New Jersey (Mrs. FENWICK) is making is that we somehow in this Congress have to be able to centralize the authority and the

knowledge of what is being spent. That is the point, the point of reducing the number of distribution points through the Federal budget to eliminate the condition which exists more often than not in this body of not knowing what is being spent in total by the Federal Government. I think this is a clear example right here of the problem, when the committee comes out with a bill and makes a statement from the report that no funds are being spent under any other committee, when, in fact, there are millions of dollars being spent for the same purpose by other House committees.

I am asking the gentlewoman now if there is an indication that she will support an administration rescission bill rescinding funds when duplication of expenditures with other committees' efforts?

Hearing no response, I will yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding. I would like to explain to the gentlewoman from New Jersey the real purpose of this section of the bill. The purpose of this section in the bill is what we call a "goodie." That is a term of legislative art. This bill is so bad that it will need a lot of these goodies in order to attract support of those of us whose districts are affected.

I hope the gentlewoman will view the whole bill with the same critical air as she did this section. I wish the gentlewoman would do that for the rest of the bill.

I thank the gentleman for yielding.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

The gentlewoman from New Jersey (Mrs. FENWICK) is sincere, and she is right. There ought to be centralized coordination of research. We ought to avoid duplication.

However, I think she misses the essential thrust of this bill. They do not have a student body at ERDA; they do not have a student body at the National Science Foundation. The whole point of this title is to start cranking out some mining and metallurgical graduates and develop new technologies at our universities so we will have the mining and mineral processing capability to do what we need to do in the field of research and development.

The Director of the Bureau of Mines says this Nation is now graduating something like 300 undergraduates a year in mining engineering, and that the need in this country is four or five times that many.

So, Mr. Chairman, when we talk about duplication in a research program, we must realize we have got to have graduate engineers to man that research project, whether it is in ERDA or whether it is in the National Science Foundation.

This amendment has very broad support from universities all across this country. These universities want to beef up their courses to produce engineering students, and it has nothing to do with the fact there might be duplication of research projects in other agencies.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. Yes; I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, in many respects the gentleman is absolutely right. We have been speaking of the considerable research that needs to be done when in fact the issue was money for the Institutes.

If the gentleman will remember perhaps, I spoke earlier of the fact that there is $10 million of scholarships for students in the field of one program of the National Science Foundation alone.

Now that I have my papers, I see here that the National Science Foundation offers $10 million in national fellowships in mineral engineering. One only has to apply, and not one person applied.

They also have a graduate program with 172 trainees.

Let us be sure that the National Science Foundation provides the money not just for the graduate students, but for all students. That is how we would get this done if we are going to hand out the money.

Mr. UDALL. Mr. Chairman, we are trying to accelerate the education of these new engineers we need, and we do not do much in that respect, after all. For instance, if the Nevada School of Mines is trying to get some money for scholarships, this bill provides the funds for the training of engineers and fills that need.

Mrs. FENWICK. Mr. Chairman, in addition, the Department of Health, Education, and Welfare also has a million dollars and a half.

All I am saying is that maybe the money can be properly used. All I am saying is that it should be centralized so that there is one group that decides what the appropriate course is or what the curriculum should be. One group should decide the qualifications of students.

Mr. UDALL. Mr. Chairman, this title is geared to the idea that this be turned loose to a large number of our universities and that we give them the money to establish broad-based engineering curriculums and staffs so we can produce the engineers and do a lot of valuable research in the process.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to ask a question.

If this bill takes care of training sufficient engineers and technological people, is the gentleman telling me that when the Committee on Science and Technology considers a bill authorizing funds for these purposes it should be voted against because we have already authorized sufficient funds?

Mr. UDALL. Mr. Chairman, I am not familiar with the details of that program, but I would not take it into account. If we take into account what other Institutes are doing, yes, perhaps the gentleman should vote against it.

Mr. MYERS of Pennsylvania. Mr. Chairman, what suprises me, is that this bill comes out on the floor and ignores what we have been authorizing in the Committee on Science and Technology for these same purposes. I have been trying to pay attention in that committee as to where we are committing large sums and I know we have committed many millions of dollars for these same purposes.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have the greatest admiration for the author of this amendment, and I believe there is no Member on the floor today or last Friday who followed the legislation more closely or more carefully than she did.

Unfortunately, this particular instance I do have to oppose the amendment she has offered.

I think the facts really speak for themselves, regardless of the moneys available for the National Science Foundation and regardless of whether they have or have not tried to funnel these moneys into the mineral institutions of our country. The fact remains that we are turning out fewer and fewer mining and metallurgical graduates. The fact remains that the number of schools offering courses in these various areas and specialties has declined rapidly through the years, and it is absolutely necessary, if we are going to double the production of coal in the next 10 years, if we are going to make ourselves independent of foreign sources of supply of other minerals, not only coal, but copper and iron ore, that we simply have to have the graduates and the attendent research effort.

We have to produce the mining graduates and encourage young men to undertake that type of education. We have to develop a broader outlook within our universities, and this will require larger graduate student enrollments.

In terms of focusing on graduates and focusing on production and bringing into being new mining technologies we are behind the times.

For all of these reasons, I think we need a vastly strengthened effort within our mining institutions and mining schools.

I think the legislation we have brought out of the committee is absolutely essential if we are to reach these goals.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I will yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, what I do not understand is this: Does the gentleman have any facts to indicate that there was anyone who wanted to be a mining engineer and study mining engineering last year who did not do so because there was not available the services of something such as will be supplied by this institute that is now being created?

Mr. RUPPE. I would only say that the number of schools offering mining degrees has very sharply dropped in the last years. It has inevitably led to a reduced number of students that can be provided with mining degrees.

I think also that the fact that there has not been research provided within

the various schools has discouraged not only undergraduates but graduate students who would be furthering their education in the mining area. If the schools are not there, if the graduate research is not available, certainly that is a very discouraging factor when it comes to the young men of this country making up their minds as to where to go in the advancement of their future careers.

Mr. WYDLER. If the gentleman will yield further, it is likely to be the fact that as the country continues to develop its energy resources and starts to put more emphasis into energy development, this field will open up, and people will want to become mining engineers. They will see it as a good, growing profession, and they will seek to get into it, I think, if we allow the law of supply and demand to operate in the educational field. Then I think we would find that the number of people going into mining engineering would probably increase, with or without the institute.

Mr. RUPPE. I think the number of students will increase, but I think we have to recognize that in the area of coal production alone, we have ignored the field, and perhaps we have actually discouraged and brought about a reduction in the amount of coal production in recent years. I think I am correct in saying that certainly there has been on the part of many young people a feeling that the mining industry has no future, a feeling on the part of many young people that somehow the mining industry is very bad and is a poor industry for a career.

For all of these reasons and because of public and governmental neglect of the industry, I do think that they need an extra amount of support now that would not have been necessary had that industry been permitted and encouraged to grow in the past decade or two.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Idaho.

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

Mr. SYMMS. Mr. Chairman, at a time when we are facing a worldwide scarcity of minerals it seems that this may put education moneys directly into a channel where they can be available to the people who realize the problem—namely mining schools and the Bureau of Mines.

I oppose this amendment because this may well be the only part of this bill which may in the long run help solve the energy and mineral crisis we are in.

With so many creditable universities and colleges around the country putting in courses in horoscope reading and doing away with courses in hard science I would say this is a section of the bill in which I can support—even though on final passage I will vote against the bill.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Pennsylvania (Mr. MYERS).

Mr. MYERS of Pennsylvania. Mr. Chairman, I would like to say to the gentleman that my concern is the same as that of the gentlewoman from New Jersey (Mrs. FENWICK), in that we are not opposed to the infusion of money to educate people. What I am concerned about is the fact that I think the Committee on Interior has ignored the fact that somebody else might be attacking this same problem. What we have to do is go into the fact that Congress has ignored the problem in the past, and now we all want to get a piece of the pie. I think the concern has to be that we do not over react, that we do not have several committees throwing in several millions of dollars and duplicating the effort.

I would like to see a commitment from the committee that if there is duplication proved and the administration comes back and says that these funds are no longer needed, they, in fact, will support a rescission. However, I have not seen anything in the past action in this body that convinces me that once funds are appropriated or authorized, anybody is willing to stand up with enough guts to say that we will not spend the money because it is no longer needed.

Mr. RUPPE. The gentleman did mention a rescission bill. If at any time I felt that another type of program or another effort would do the job, I would certainly support a rescission bill. I am not tied to this type of financing, but I do know and realize what has been going on in the past with respect to enrollments. The drive has to be undertaken, and I think it is very laudable that the Committee on Interior took up the cudgel.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 18; noes 52.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 301? If not, the Clerk will read.

The Clerk read as follows:

RESEARCH FUNDS TO INSTITUTES

SEC. 302. (a) There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $15,000,000 in fiscal year 1975, said sum increased by $2,000,000 each fiscal year thereafter for six years, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses for purposes of:

(1) specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes, and

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which may be deemed desirable and are not otherwise being studied.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project.

(c) The Secretary shall insofar as it is practicable, utilize the facilities of institutes designated in section 301 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, and on the basis of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilize such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) No grant shall be made under subsection (a) of this section except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

(e) No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

FUNDING CRITERIA

SEC. 303. (a) Sums available to institutes under the terms of sections 301 and 302 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will supplement and, to the extent practicable increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursement on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of an institute under the provisions of this title shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this title shall be available for expenses for research, investigations, experiments, and training conducted under authority of this title. The institutes are hereby authorized and encouraged to plan and conduct programs under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solu-

tion of the mining and mineral resources problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

SEC. 304. (a) The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated under this title by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) On or before the 1st day of July in each year after the passage of this title, the Secretary shall ascertain whether the requirements of section 303(a) have been met as to each institute and State.

(c) The Secretary sahll make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this title. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

AUTONOMY

SEC. 305. Nothing in this title shall be constructed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

MISCELLANEOUS PROVISIONS

SEC. 306. (a) The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources of State and local governments, and of private institutions and individuals to assure that the programs authorized in this title will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this title, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this title is intended to give or shall be construed as giving the Secretary of the Interior any authority over mining and mineral resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts or other arrangements for mining and mineral resources research work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(d) No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act unless all uses, products, processes, patents, and other developments resulting therefrom with such exception or limitation, if any, as the Secretary may find necessary in the public interest, be available promptly to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent. There are authorized to be appropriated such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under the provisions of this Act and for administrative planning and direction, but such appropriations shall not exceed $1,000,000 in any fiscal year.

CENTER FOR CATALOGING

SEC. 307. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of Government, colleges, universities, private institutions, firms and individuals as may make such information available.

INTERAGENCY COOPERATION

SEC. 308. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research.

(b) identification and elimination of duplication and overlap between two or more agency programs;

(c) identification of technical needs in various mining and mineral resources research categories;

(d) recommendations with respect to allocation of technical effort among the Federal agencies;

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort; and

(f) actions to facilitate interagency communication at management levels.

ADVISORY COMMITTEE

SEC. 309. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this title. The Secretary of the Interior shall consult with, and consider recommendations of, such Committee in the conduct of mining and mineral resources research and the making of any grant under this title.

(c) Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary, but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

Mr. UDALL (during the reading). Mr. Chairman, I am unaware of any other proposed amendments to title III. I would ask unanimous consent that the remainder of title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there further amendments to title III? If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL 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 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 limitation.

(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 thirty-five cents per ton of coal produced by surface coal mining and 10 cents per ton of coal produced by underground mining, or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less. Such fee, with respect to coal produced after the date of enactment of this Act and before January 1, 1976, shall be paid

not later than the end of the first calendar quarter of 1976, and thereafter shall be paid not later than the end of the calendar quarter following the calendar quarter in which the coal was produced in the period beginning January 1, 1976, and ending ten years after the date of enactment of this Act unless extended by an Act of Congress. At the end of each three-year period following the date of enactment of this Act, the Secretary shall adjust the fee to reflect any change in the cost of living index since the beginning of such three-year period.

(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: *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.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas 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 conservation of land and water resources;

(c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conversation 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 program methods and techniques in all areas of the United States.

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 abandonment 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 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 reseources, of such lands. Such agreements shall be made by the Secretary 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.

(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 160 acres of land occupied by such owner including water rights owners, resident or tenant, or on not more than 160 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.

(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.

(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 hereby declares that the 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 acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell 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, including reclamation easements, 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 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) For the purposes of this section, when the Secretary seeks to acquire an interest in land or mineral rights, and cannot negotiate an agreement with the owner of such interest or right he shall request the Attorney General to file a condemnation suit and take interest or right, following a tender of just compensation awarded by a jury to such person. When the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health, or to property, the Secretary may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(4) For the purposes of this section, when the Secretary takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Secretary shall request the Attorney General to file a condemnation suit, and give notice, and may take such interest or rights immediately upon payment into court of such amount as the Secretary shall estimate to be the fair market value of such interest or rights. If a person or persons establishes title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Secretary shall pay any further amount that may be agreed to pursuant to negotiations or

awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Secretary and be deposited in the fund.

(5) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to transfer such lands to the Secretary to be reclaimed 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 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 acquired under this section. In preparing these specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal 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 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.

(b)(1) The Secretary is authorized to use money in the 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.

(2) The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance maney 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 purposes 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 adequate housing facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health or safety. The Secretary, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health or safety.

(b) 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 meet the purposes of this section.

(c) The Secreteary 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, and annually thereafter, the Secretary shall report to the Congress 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.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I wonder if the gentleman from Arizona would withhold his unanimous consent request. I do not know how many amendments are pending to the bill. I have heard there are a great many amendments pending.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, title IV is a kind of a complicated title. I know of half a dozen amendments that relate to the title, and I believe it would be much more orderly if we could consider title IV as open. There is no disposition on this side to limit debate, or anything.

Mr. BAUMAN. Mr. Chairman, with that assurance, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Amend section 405(b)(4), page 207, line 1, by changing the word "coal" to "energy".

(Mr. MELCHER asked and was given permission to revise and extend his remarks.)

Mr. MELCHER. Mr. Chairman and Members of the Committee, I shall not take the full 5 minutes unless there are questions to be asked on this amendment.

What we intended in the original bill and what we intended in the conference, in the final bill that was passed last year, and what we still intend, is that in this subsection we are also referring to conversion facilities. So it is more appropriate in that regard to refer to "energy" rather than simply to "coal."

I would hope that the committee could accept this simple amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I will be delighted to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think this is a good amendment. The problems relating to oil shale and to lignite and other energy materials are just as severe as they are with coal and other resources in the bill.

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, I would like to ask the author of the amendment, if I could, just how broadly this would be used in reclamation funding.

Mr. MELCHER. If the gentleman will yield, this subsection would provide in impact areas with rapidly developing populations the opportunity to benefit from the funds for public facility purposes.

At the time we passed the bill in the House, and all during the conference, we were referring to conversion facilities of a much broader range than just mining coal. As the gentleman from Arizona has mentioned, this also applies to oil shale and applies to lignite. It does broaden it, but I think it only goes as far as the House intended.

Mr. RUPPE. I should like to ask the gentleman further, are we suggesting that the moneys raised from the Coal Reclamation Fund can be used anywhere in the United States in any area that is experiencing a rapid growth from the development of its energy resources? Could we take the coal reclamation moneys and perhaps use them down in Texas or along the gulf coast of Texas or Louisiana because of the explosive growth there of their natural gas and oil extraction industries?

Mr. MELCHER. If the gentleman will yield further, the gentleman has, I think, broadened it much, much beyond what the Secretary of the Interior would possibly consider, because the Secretary, who must administer these funds, if asked to agree to any proposal for the use of such funds, I am sure would not take such a broad view and would not relate it to oil or gas development. But the bill with this amendment would mean coal, also shale, assuredly lignite, but would not just limit it in terms of where the mining would occur, but would also look at the conversion facilities as far as steam generating plants in relation to the coal or lignite mining, or coal gasification plants. That is truly what the intent of this subsection has been, because in many cases that has caused a rapid expansion of population and impact from rapid population expansion requires additional funds.

Mr. RUPPE. Would not the language or the word "coal" apply to lignite or apply to shale? Would not the term in the legislation now cover all of the particular instances that the gentleman has just indicated?

Mr. MELCHER. I do not think shale without my amendment that the bill answers oil. We are in another amendment in the bill treating lignite differently than we are treating coal. I would advise that in every instance I think simply by using the term energy, we do give the Secretary broadness or the scope to use the funds correctly, as we envisioned it, but would not turn him loose to use it for such a broad purpose as the gentleman from Michigan has suggested concerning oil and gas production.

Mr. RUPPE. My particular concern lies with section (b)(1) on page 205, which would indicate that the moneys can be used for almost any particular purpose that deals with the reclamation, development, or transfer of land. My concern with the gentleman's amendment is not only can he use it for any particular purpose, but with that amendment he can use it almost anywhere in the country, unless the language is defined further.

Mr. MELCHER. I must remind the gentleman from Michigan that the subsection deals only with public facilities.

Mr. RUPPE. It deals with public facilities in total, but that also could be almost anything dealing with housing; is that not correct?

Mr. MELCHER. As is defined in public facilities, yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. ANDREWS of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDREWS of North Dakota: Page 194, line 15, after the word "less" on line 15, strike out the period and insert a comma and add the following words: "except that this reclamation fee for lignite coal shall be at a rate of 5 percentum of the value of the coal at the mine, or 35 cents, whichever is less."

Mr. ANDREWS of North Dakota. Mr. Chairman, as we discussed in the general debate on this bill, the severance tax in this bill is to restore previously-mined land. It is set at 35 cents, or 10 percent of the value, whichever is less. In the case of coal costing $35 a ton, it is a 1-percent tax; in the case of coal costing $17.50 per ton, it is a 2-percent tax, down to $7.00 coal, where it is a 5-percent tax.

In my State and in two other Western States there is a fuel called lignite, so-called coal.

It has less than one-half the Btu's that coal has. All we have is this lignite fuel. It is low in Btu's but it is our only energy source.

In my amendment we change the "10 percent" to "5 percent" and put it in effect more on a par with the other fuel taxes across this country levied by this legislation.

I appreciate the comments made by my colleague, the gentleman from Arizona (Mr. UDALL) and my colleague, the gentleman from Montana (Mr. MELCHER), on Friday.

This amendment as changed to go along with their suggestion now is specific to lignite and provides simple equity since our people should not have to pay two to three times as much per kilowatt hour for the purposes of this bill, as people in other parts of the country. We are in favor of the bill and we support the bill but we think this change should be made to provide fair play for our people.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I appreciate the gentleman's long and strong support for the purposes of this legislation.

I have been persuaded since the committee reported out this bill that it is basically wrong to charge the same for the high Btu coal as for the coal which is in the gentleman's State which is called lignite. It seems to me if we change the formula to 5 percent or 35 cents, whichever is less, we will have arrived at an equitable result.

So, Mr. Chairman, I favor the amendment offered by the gentleman from North Dakota.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I support the amendment offered by the gentleman from North Dakota.

As one of the original sponsors of the strip mining legislation here I think certainly it is inequitable to charge 35 cents a ton for a product which is selling for $2.33 a ton and still charge 35 cents for a product which is selling for as high as $35 a ton. I think the gentleman's formula is certainly fair and equitable and I support his amendment.

Mr. ANDREWS of North Dakota. I thank my colleague, the gentleman from Ohio.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, has the gentleman been able to develop any determination as to what the 5-percent figure would result in? What would be the value of the lignite and the total of the tax?

Mr. ANDREWS of North Dakota. The value of the lignite at the present time is $2 to $2.50 per ton at the mine site. At the 5-percent level this would result in a 10 cents to 12 cents tax per ton. Actually this would equate out in terms of cost per kilowatt hour the same as a 35-cent tax on coal that has three times the Btu's and does not need the long transmission lines.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I had the staff check it out. One of the concerns I had was the integrity of the size of the fund. Because the production of lignite is such a small proportion of the overall energy coal production we are told the total impact on the fund would be minimal and would be around $1 million and we are dealing with a fund that we hope will produce $135 million per year, so I do not think we are hurting the fund.

Mr. ANDREWS of North Dakota. That is absolutely correct. As the chairman has pointed out, there are only three States in which lignite is located, the States of Texas and North Dakota, and one-quarter or one-fifth share of the coal mined in Montana.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I congratulate the gentleman for his amendment and I rise in support of it.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I support the amendment offered by the gentleman but with an amendment which I would like to offer as a substitute as soon as I can get recognized for that purpose. It does not affect the gentleman's amendment but affects the rate

of the fee on strip mined coal. It would increase it from 35 to 50 cents per ton.

AMENDMENT OFFERED BY MR. SEIBERLING AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. SEIBERLING. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING as a substitute for the amendment offered by Mr. ANDREWS of North Dakota: page 194, line 9, adopt the sentence starting on line 9, but change "35" to "50".

Mr. SEIBERLING. Mr. Chairman, the effect of my substitute is simply to adopt the language presently appearing on line 9 in the sentence beginning in that line on page 194 with the change offered by the gentleman from North Dakota but with an additional change.

I would simply change the rate that appears on line 11 from 35 cents per ton to 50 cents per ton.

POINT OF ORDER

Mr. STEIGER of Arizona. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. STEIGER of Arizona. Mr. Chairman, I am afraid that the gentleman from Ohio has made a parliamentary error. His intention is not compatible with the substitution of his amendment for that of the gentleman from North Dakota.

The CHAIRMAN. The gentleman's point of order comes too late.

Mr. STEIGER of Arizona. I would point out to the gentleman from Ohio that what he is doing is not what he says he is doing.

Mr. SEIBERLING. Mr. Chairman, will the gentleman from Arizona kindly explain why it is not what I say I am doing?

Mr. STEIGER of Arizona. Because if the amendment of the gentleman from Ohio carries, the amendment of the gentleman from North Dakota will be abandoned and there is no reference in the amendment of the gentleman from Ohio to the language of the gentleman from North Dakota.

Mr. SEIBERLING. I believe there is.

The CHAIRMAN. The Clerk will reread the amendment.

The Clerk read as follows:

Page 194, line 9, adopt the sentence starting on line 9, but change "35" to "50".

Mr. SEIBERLING. Mr. Chairman, I do not know if the Clerk dropped out a word. Maybe the Clerk could not read my writing.

My writing says.

Page 194, line 9, adopt the sentence starting on line 9, but change "35" to "50".

PARLIAMENTARY INQUIRY

Mr. ANDREWS of North Dakota. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ANDREWS of North Dakota. My amendment is on page 194, line 15.

I would point out that the amendment of the gentleman from Ohio would probably be better standing on its own, since it affects strip mining all over the country and my amendment affects strip mining only in two or three States.

The CHAIRMAN. The Chair will state that the amendment of the gentleman from North Dakota beginning on page 194, line 15, while it might have been subject to a point of order earlier, it is not subject to a point of order at the present time.

Mr. SEIBERLING. Mr. Chairman, I would like to make this point. If we are going to start watering down this fund, just water it down to the point we have cut $45 million out of it in committee to the point where it will be decreased, as I have indicated, it will take some 50 years to completely restore all the abandoned lands that have already been destroyed by strip mining; so it seems to me the very least we can do if we are going to cut some more money out of it in one place, that we add some money to it in another place.

Mr. ANDREWS of North Dakota. Mr. Chairman, if my colleague, the gentleman from Ohio will yield, my amendment is not designed to water down the fund. My amendment is designed to get equity for those people that have to depend on this type of lignite fuel, so they are not paying three times as much per kilowatt hour for fuel than others do who use a coal which has three times as much Btu. All we are trying to do is recognize that it will be more equitable at the 5-percent level, which it is for almost all coal, and not at the 10-percent level, which would grossly discriminate against those people depending on lignite for their electricity. I am not trying to water it down.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. Yes. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. I understand that we are proposing charging 35 cents to 50 cents additional per ton for the problem of reclaiming previously destroyed land by strip mining. Is that the impression of the gentleman? The essential effect of the amendment of the gentleman from Ohio would be to accelerate that rate. I do not question the feasibility or the reasoning for reclamation, in fact I strongly support a reclamation commitment. I do question whether or not we want to accelerate the rate of committed funds at this time, because energy costs have been accelerated already in the private sector.

I am only asking, why do we not address that problem from this standpoint? As we get further into a coal commitment and coal gets to be a broader base of our energy, then let us reconsider the tax for reclamation again.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. SEIBERLING was allowed to proceed for an additional 2 minutes.)

Mr. MYERS of Pennsylvania. Keeping this tax at 35 cents may, in fact, allow a smooth transition into a reclamation program on a more efficent program than the cost we are now determining. Again I state that 2 years or 3 years from now, if data indicates a need for an additional 15 cents, we then can change the legislation at that time.

Mr. SEIBERLING. Of course that is true, but the fact is the cost of coal is presently not determined by the cost of producing. The price of coal has risen fantastically in the last couple of years. In fact, in the last 5 years it has tripled.

The reason is that somehow the coal industry has managed to take advantage of the increased cost of other competing forms of fuel, if we had an additional factor greater than the small amount we are talking about, it is not necessarily going to have any effect on the price, which is what we are talking about.

I agree with the gentleman from North Dakota that his amendment is fair and equitable, and I support it provided we also make a reasonable adjustment upward in the fee on strip mining coal. There is another good reason for doing that. Ninety-seven percent of all the coal reserves of this country can only be obtained by deep mining. If we talk about easy access reserves, the ratio is 8 to 1, so we want to encourage deep mine coal and discourage to some extent strip mine coal where it cannot afford to pay the amount.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is an amendment offered by the gentleman from North Dakota (Mr. ANDREWS), which I support. There is a substitute amendment offered by the gentleman from Ohio (Mr. SEIBERLING), which increases the overall fee for surface mining from 35 cents to 50 cents. The 35-cent figure is a compromise the committee reached. We should hold to it in good conscience.

Mr. Chairman, I would hope the committee would adopt the Andrews amendment and defeat the Seiberling substitute amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, do I understand the gentleman is not opposing increasing the fee from 35 cents to 50 cents?

Mr. UDALL. No, I would have to stick with the committee. I would like a much bigger fund than we are going to have, but the compromise we had in committee is 35 cents and 10 cents, and is one I think we ought to stick to.

AMENDMENT OFFERED BY MR. RUPPE TO THE SURSTITUTE AMENDMENT OFFERED BY MR. SEIBERLING

Mr. RUPPE. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. RUPPE to the substitute amendment offered by Mr. SEIBERLING: On page 194, line 11, amend the substitute by striking "50" and inserting the word "ten."

POINT OF ORDER

Mr. SEIBERLING. Mr. Chairman, a point or order.

The CHAIRMAN. The gentleman will state it.

Mr. SEIBERLING. Mr. Chairman, I believe that is an amendment of the third degree, and therefore is out of order.

The CHAIRMAN. The gentleman from Ohio offered a substitute. An amendment to that substitute is not in the third degree at this point.

Mr. RUPPE. Mr. Chairman, I offer this amendment so that we can determine right now, and once and for all, just the type and the amount of reclamation fee we should have in the legislation before us. The gentleman who offered the substitute has suggested that the reclamation fee is too low. I would suggest in turn, and strongly believe, that the reclamation fee is too high. Not only do I believe the fee is too high, but I believe the fee in the bill we have before us, 35 cents a ton for surface mined coal, would simply increase the cost of coal, the cost of electricity and the cost of energy in every one of the congressional districts represented in this room today.

I think we ought to take a moment and just know exactly what the reclamation fund is to be used for. I believe it should be used for the reclamation and rebuilding of orphan lands.

The Department of the Interior has suggested and the Bureau of Mines has reported there are about a million acres of orphan lands in the United States that have been mined over and damaged. But, the report by the Department of the Interior also indicates that about half of those have been stabilized. They have at the present time a timber and vegetative cover.

Of the remaining half million acres, I beliee many of them will be put back into first-class condition under this legislation because many of the areas in Appalachia will be mined again, and those areas mined again, or remined, will be under the control of this legislation and will be put back into first-class, usable condition.

So, I would believe that the 10 cents per ton figure I have suggested for surface mining, as well as for underground mining, is totally adequate to do the paramount and prime job called for under this legislation, which is the reclamation of orphan lands. I think the very fact that we have section (b) (1) on page 205 of the bill is a very strong indication that there is a lot more money in the reclamation fund than has to be utilized for the rebuilding of orphan lands.

On page 205 of the bill, the Secretary would authorize the use of this money for any type of housing program that would help people, as an example, that are affected by catastrophic failure.

I would like to be able to define for the Members of this House just exactly what is catastrophic failure. Yet the Secretary can use the moneys of the reclamation fund for anything that supports housing, as long as it can provide a remedy for catastrophic failure from any cause.

I would like to suggest that for that reason the Secretary can use the money for highway construction or roadway acquisition, land acquisition, sewer and water financing, in these areas where he deems that people have been affected by catastrophic failure.

So I suggest that the language that we have in this bill is wide open for abuse. There are tens of millions of pork barrel dollars in this legislation, and each one of us, each district in this room, is going to have to pay; consumers are going to have to pay for the pork barrel funding in this legislation.

Ten cents a ton reclamation fee would be entirely enough funding to provide for rehabilitation of orphaned lands. Anything above 10 cents a ton reclamation fee will simply result in pork barrel expenditures, not only today, but obviously to a much greater degree as the fund builds up and coal production is increased in the United States.

So if we want to strike one blow in this legislation for the American consumer, if we want to make one effort in this legislation to stabilize the utility rates in the years ahead, we can do so by the passage of the amendment I have offered here, while at the same time knowing that the reclamation effort to improve abandoned or orphaned lands can be undertaken and the lands rehabilitated.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. SEIBERLING. Mr. Chairman, I ask unanimous consent to withdraw my amendment in the nature of a substitute.

The CHAIRMAN. The gentleman from Ohio (Mr. HAYS) has been recognized.

Mr. SEIBERLING. Excuse me.

Mr. HAYS of Ohio. Mr. Chairman, I yield to the gentleman.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, the Chair informs me that the manner in which my amendment was offered would, in effect, wipe out Mr. ANDREWS' amendment, and that was not my intention.

I am perfectly willing to debate the issues of what the fee should be with the gentleman from Michigan by offering a separate amendment.

Therefore, I would ask unanimous consent to withdraw my substitute amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. SEIBERLING)?

There was no objection.

The CHAIRMAN. The substitute of the gentleman from Ohio (Mr. SEIBERLING) is withdrawn, and the amendment offered by the gentleman from Michigan (Mr. RUPPE) to the substitute is therefore withdrawn.

Mr. HAYS of Ohio. Mr. Chairman, I had risen to oppose the gentleman's amendment which is now withdrawn. I presume he will offer it at a later time. While I am here and have the time, I just want to say that I do not agree with the argument at all that this bill creates a pork barrel fund. The gentleman talks about how wide open it is. Let me tell the Members one little example of what happened in the little town I have lived in for the last 35 years. Their water supply, as far as being fit for human consumption, was totally destroyed by strip mining. There are several different sulfates now in the water which were not there before, and one of them is up to 140 parts per million, when the permissible is four parts. Because the coal company made money out of stripping that area where the wells were and caused the ground to be disturbed and all of the slate, and so on, to be torn up and thrown back and the water seeps down through it, is that to say that this fund should not be used to help that little village of 1,200 people rectify what has happened to their water supply?

Mr. Chairman, I do not think 35 cents a ton is unreasonable.

Let me tell the Members something about passing this on to the consumer. We all know what the coal companies have done since the oil shortage. They have gone from $6 a ton to $30 a ton, and every dime of that has been passed on to the consumer.

We are not talking about a 500-percent increase, not at all. We are talking about not even a 2-percent increase; we are talking about something like a 1-percent increase. The average cost to the average consumer is going to be about a half a cent a month or a cent a month, something like that, maybe 3 cents at the most, on his electric bill.

Well, perhaps you may say that is not true. The figures I had, when they were talking about $1.50, was 15 cents a month. I do not know, but whatever it is, it will not be that much.

All right, we will say a penny a day, if that will make us happier. That is 30 cents a month.

I do not think anybody is going to object to a penny a day on the electric bill if that is going to cause these 1 million acres of land to be put back into useful production.

Many of the Members have been out to my area, and we have seen some of these 80-foot and 100-foot-high walls that these companies have walked off and left. No one is going to put them back into any useful production. I suppose we could say, to use our terminology, that it has been stabilized, but it is stabilized about like the Gobi Desert has been stabilized, and it is just about as valuable.

What we are talking about is putting it back into productive use, and that has not been done in a good many cases.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I thank the gentleman for yielding.

I will say that in the gentleman's district we have probably seen some of the best and some of the worst types of coal mining in the United States. I have no argument with the gentleman's comment that in those areas that have been affected by coal mining or the ravages of coal mining these water and sewer systems and other public necessities should be supported by the legislation.

What I am really getting at is the very broad-based national legislation which suggests communities can be assisted if they can show they have been affected by

a natural disaster or catastrophic failure from any cause. What I am getting at is that when we talk about a "catastrophic failure" for any cause, we are going far beyond coal mining and are saying we will help a community for any reason.

Mr. HAYS of Ohio. Mr. Chairman, I appreciate the gentleman's point of view, but he is attacking the wrong thing.

If the gentleman does not think that language should be there and he offers an amendment to take out that language, and if he makes out a good case, I would probably be open-minded on that. But I am not going to be open-minded on reducing the amount of money it is going to take from strip operators who walked off and left this damage to restore it.

If we look down the road 10 years from now, we might be amazed about how little will be restored, because the amount of money is not sufficient, even at 35 cents. But if we see the job has been done in 5 years or in 20 years, or whenever, the Congress may come back to remove that language totally if they restore the land as they go.

Mr. Chairman, we have some land in Ohio that has been totally restored. I can show the Members 25 acres next to my farm. They came in and took off the topsoil, took out the subsoil, and then they put the topsoil back on, and they have planted it in alfalfa. That land grows as good a crop of alfalfa as I do on my farm, which is next to it and which has not been disturbed at all. But they did not do that until we had a strip mine law in Ohio that forced them to do it.

There are literally tens of thousands of acres in Appalachia that have been torn up and that will never be restored unless it is done from this fund.

Mr. CHAIRMAN. The time of the gentleman from Ohio (Mr. HAYS) has expired.

(On request of Mr. UDALL and by unanimous consent, Mr. HAYS of Ohio was allowed to proceed for 2 additional minutes.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think the gentleman has made a very important statement. I want to concur with everything he said. I wish to underline this point about the abandoned reclamation mine fund. It deals not just with the restoration of land, it deals with the restoration of water resources.

The gentleman from Ohio made the point that many of these surface mine operations disturb the water supply and poison streams, and this fund can be used to restore those streams and restore those water supplies.

What happened in the bill 2 years ago? We had $200 million a year in it. The committee made a cutback to $35 million a year. The gentleman from Michigan wants to cut it back to $60 million a year. The Department in its own report estimates there is $6 billion worth of damage that must be restored and estimates it would take 100 years to do the job.

Mr. Chairman, it would be a disaster to cut this fee down to 10 cents.

Mr. HAYS of Ohio. Mr. Chairman, I agree with the gentleman. I call tell the Members there are creeks in my district that have been destroyed by abandoned deep mines and that need a lot of work done on them. If you drink that water, it will kill you. The water is no good. Fish cannot live in it; not even crayfish can live in it. It is absolutely poisonous.

Mr. DENT. Mr. Chairman, will the gentleman yield to permit me to ask a question of the sponsor.

Mr. HAYS of Ohio. Yes, I yield to the gentleman from Pennsylvania.

Mr. DENT. Will this particular section of the bill take care and provide for mine sealing operations?

Mr. UDALL. If the gentleman will yield, this is a very wide purpose fund. One can seal abandoned mines, stop fires, restore the quality of the water. One can do the things that the gentleman from Ohio is talking about. One can correct subsidence and can restore land. There is a broad cash fund to do what society needs to do.

Mr. DENT. Does it also do what the gentleman complains of, take care of catastrophes and other conditions that arise because of something other than mining, in other words, say, a flood?

Mr. UDALL. No, no.

Mr. DENT. It would not?

Mr. UDALL. No. It has nothing to do with that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. ANDREWS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 194, line 11, strike out "thirty-five" and insert "fifty".

Mr. SEIBERLING. Mr. Chairman, I think we should have a little further discussion on the subject that the gentleman from Ohio (Mr. HAYS) and the gentleman from Michigan (Mr. RUPPE) have already covered.

The Bureau of Mines and the Army engineers have estimated that to restore the over 2 million acres of abandoned lands that have been strip mined in this country will require $9 billion at 1973 costs. Obviously, it will take more money than that at present costs. Yet, the fund that is contained in the bill provides for $130 million per year starting this coming year. That will obviously go up as the coal mining increases. Nevertheless, it is an extremely small amount of money to do a very important job.

We have a food shortage in this world. We have a lumber shortage. We need every acre of productive land that we can find or restore in this country if we are going to meet the needs of the future. I submit that, purely from a business standpoint, restoring these abandoned lands, 2 million acres, is a desirable thing to do. Who should pay the costs of this restoration? The costs should be factored into the costs of mining coal, since it was mining coal that caused the destruction in the first place.

A lot of people say, "Why should we charge future present mining operations for the depredations of past coal mining practices?" The answer is: What better place to charge this cost?

It has been said the severance fee will raise the cost of energy to the consumer. The facts indicate otherwise. On page 72 of the committee report there is a chart prepared by the American Public Power Association which shows that, from 1967—which is the year prior to which there was very little increase in the cost of coal—to the end of 1974, the spot prices of bituminous coal have tripled. In the same period wages in the coal industry have gone up 50 percent, while the volume of production has gone up hardly at all.

Further, on page 73, the report brings out that this increase in price has produced a tremendous escalation in the profits of the coal companies.

The marketplace—or what passes for a marketplace in this age of high oil prices—not the cost of production is obviously setting the price of coal. So that if we add a few cents to the price of coal or the cost of coal in terms of production at the mine, we are not really adding anything to the price in the marketplace.

It seems to me that the very least we can do, if we are going to take off 25 cents, which is what the committee did, from the fee on deep-mined coal, that we ought to add that 15 cents to the fee for strip mined coal. That is exactly what my amendment does. That will bring out about the same amount of money as the bill that passed the House last December.

Therefore I urge the adoption of my amendment.

AMENDMENT OFFERED BY MR. RUPPE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SEIBERLING

Mr. RUPPE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. RUPPE as a substitute for the amendment offered by Mr. SEIBERLING: on page 194, line 11 after the word "of", strike out the word "fifty" and insert the word "ten". On line 12, place a period after the word "produced" and strike the remainder of the sentence through the period on line 15.

And on page 194, line 22 strike the word "unless" and all of lines 23, 24 and 25 on page 194. Strike lines 1 and 2 on page 195.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, I will not take the whole of the five minutes since we have debated this amendment at the time the substitute was withdrawn a few moments ago.

Let me say in response to the comments of the gentleman from Ohio, I think the gentleman made a very good point concerning what has happened to the land in the past because of prior mining operations.

It was also pointed out that the money should be available for not just reclamation of orphan lands, but perhaps for other uses associated with bar mining

practices that have gone on in prior years.

The fact of the matter is as long as we have language in the legislation which says the money can be used for virtually every purpose as long as the purpose can be called or identified with a "natural disaster", the expenditure of the money thereof is wide open to abuses. Anything in the gentleman's district or my district can be labeled or identified a natural disaster. The fact of the matter is that tens of millions of dollars now and the many more tens of millions of dollars in the future will be misused or wasted because of the fact that almost anything can be identified as a natural disaster, and the Secretary can spend the money as he chooses once that particular project is labeled.

I have no objection to the spending of money for reclamation of orphan lands, from the 25-cent fee if all the monies are going to be spend for purposes of reclamation of orphan lands in the United States, in Ohio and in other areas affected. But only half of these monies will be paid out for the rehabilitation of orphan lands and the other half to provide a pork barrel in a number of States. And, let me say that I am not against a little pork barrel once in a while, but I do not believe that this is the time or this is the day when the utilities and the users, the consumers of the United States, should be called upon to pay another pork barrel allocation.

For the purpose of reclamation of orphan lands, this I gree with wholeheartedly; but the idea of putting in additional money in this legislation, and I believe we are talking about the addition of 25 cents a ton on strip mine coal for purely political pork barrel purposes, is unfair to the taxpayers of our country.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, the way the bill is written Congress has to appropriate the money even though this fund is accumulated. Not one dime can be spent for the reclamation provided in this bill unless Congress appropriates the money, and the funds are limited to certain usages, mainly reclamation, which means based on the experience of where men have abandoned coal mines. I do not see what the gentleman is talking about here.

Mr. RUPPE. Let me say that the consumers in my district, the people who are paying the utility bills, would be perfectly happy to pay their own money and create their own jobs. I do not really think that job creation by higher utility bills paid by my consumers is the way to bring around this economy.

Mr. SEIBERLING. For the reasons I outlined, I do not think this is going to add anything in this bill.

Mr. RUPPE. If it adds jobs in the United States, paid for by the utility users in my own district, I have a feeling that it is an expenditure by the Government not in line with the present intention of American consumers.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

We have been all around this issue during the last year. The gentleman from Michigan has been in the thick of it at every stage in the committee and in conference both, and, of course, on the House floor. What we have finally come down to in this House version of the bill is that for underground mining only 10 cents a ton will go into the fund, but for strip mining 35 cents a ton will be put in the fund.

The gentleman from Michigan is absolutely correct—half of that, 17½ cents a ton, will remain in the area where it is mined, but the gentleman is wrong when he states it is used for pork barrel.

We in the West who are not really going to touch this fund very strenuously, hardly at all, for reclamation of abandoned lands. We in the West where strip mining is moving will contribute to the fund from our quota of 35 cents a ton on all coal strip mined in our States. But we are asking, and it is so provided in the bill and was provided last year and was provided in the final version of the conference, that half of that, or 17½ cents a ton will stay in the area and State where the mining is being done, or on the Indian Reservation where the mining is being done, to meet the needs, the social impact needs, that go along with the expansion of mining or the expansion of the development of power. I do not think that is too much to ask, and I think it should be used for roads if roads are needed; I think it should be used for schools if schools are needed, or hospitals, or other health care, or for housing facilities if they are needed, in a very sparsely settled area which is contributing to meet the energy needs in this country and mining and energy development does cause social impact in making those contributions to meet the country's energy demands.

I have no quarrel with expending the sum to 50 cents per ton as the gentleman from Ohio is requesting in his amendment. If that is what the House decides, I will be glad to have the additional funds for the dual purpose of meeting the social impacts where the mining is occurring, and for reclaiming the abandoned lands. But I object strenuously to the proposal by the gentleman from Michigan to reduce the funding. I think he is asking too much of us as we go forward with our part in the West in meeitng the energy demands in this country.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

I appreciate the gentleman's comments. I would say no one has worked harder to make this a useful piece of legislation than the gentleman in the well. But I do refer once again to the language on page 205. If anything can be labeled a natural disaster or catastrophic failure, one that can come about from any cause—and that is what the language says—a disaster coming from any cause, pay out the money, and that means the people in my district pay.

Mr. MELCHER. I think the gentleman is well aware that that section does not refer to the first 17½ cents a ton that does go to the States or Indian reservation where the strip mining occurs. But what he is talking about is a provision that would allow for the repair of such as the Buffalo Creek disaster, and I think that is entirely appropriate.

I must remind again the members of the committee that this fund is not just turned loose. Each application must prove its need, must go to the Secretary of the Interior, and then the Secretary allows it within the framework and the guidance we have given him.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona.

Mr. UDALL. I just want to commend the gentleman for his statement. He is exactly right: The Ruppe amendment would be a disaster. It cuts $75 million a year out of this fund and reduces it to the point where none of the States which are now going to get substantial benefits would get enough to get anything done. The people in those States which would be relying heavily on this coal would suffer and the least we can do is to help those States do the kinds of things the gentleman from Ohio (Mr. HAYS) was talking about.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to inquire what kind of bill we are dealing with. I thought this was to do with strip mining and the devastation that kind of mining has wrought. On page 205 we find this is not on strip mining alone but it is a socioeconomic bill which is going to take a great deal of money and which has to do with a variety of purposes which have nothing to do with strip mining. This has to do with the acquisition and reclamation of abandoned unreclaimed mined land. What we are going to do here has to do with persons displaced by Government action and that could be persons displaced by Government action in a field other than mining.

Mr. MELCHER. I thank the gentlewoman for her remarks. The bill has many facets and it is attempting to satisfy the needs of the country which have to do with mining and energy development.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I would like to warn the House that one of these days, very shortly, I am going to bring to the floor a piece of legislation which will have a great deal to do with this particular piece of legislation we are working on today. A few years ago this House voted on a bill that I sponsored for about 7 years to pay black lung disease compensation. I promised the House that at the right time when we have achieved a certain goal in that particular planning, I would come before the House with legislation to put the cost of the black lung compensation onto the coal mining industry.

I have succeeded, as a result of talking with the industry and I have gotten the help of other Members in talking to the mining fraternity, and we now have an agreement between all the large strip miners and the independent miners and the mine operators of America to accept that burden.

The western miners are going to be paying into that fund the same as the eastern miners. The western miners will have little or no obligation for the black lung compensation. I do not like to see us get into a position here of putting such a burden on that that the mining people would have enough argument against our putting onto the coal miners the cost of the black lung program. We have paid out of the Treasury some $3 billion to take care of a problem they could not handle because we could not trace the black lung, so I ask that we keep the rates somewhere near what the committee has brought out and which the miners accepted and agreed to when they knew what was in the bill. If we go out of line now they may not agree to that.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. MYERS).

Mr. MYERS of Pennsylvania. Mr. Chairman, the gentleman from Ohio indicates that coal companies have enjoyed extremely large increases in profit recently, I can agree with that. I think we all agree in criticizing the rapid increases in cost of coal and the profits which are being reaped only because the price of oil increased. But we have to recognize that the objective in the near future is to expand the production of coal, and if that happens the price of coal is going to be coming down because the supply will be going up. What pushed the coal price up and pushed the operators profits down for extracting this coal was the limited supply of coal. As supplies increase and the prices decrease the effect of this tax is going to increase. Even if initially this tax is absorbed by the coal companies the tendency to pass it on to the customers will increase with these falling coal prices.

For that reason I would ask we exercise some reservations about increasing this tax above the level the Committee has suggested. It stands to reason they have done some work here. I do not agree with all the Committee has presented but we cannot lose sight of the fact that what we are doing in the Congress is hopefully going to have a significant effect of increasing the availability of coal and that will increase the probability of greater and greater costs to the consumer.

(By unanimous consent Mr. SYMMS yielded his time to Mr. STEIGER of Arizona.)

(Mr. STEIGER of Arizona asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Arizona. Mr. Chairman, on this very important debate with regard to how much we are going to assess surface miners in order to repair the sins of the past, I think we ought to recognize one small voice of reason or note of reason that ought to be included among the rhetoric. I doubt if it will be considered very carefully and certainly it will not be read by anybody; but at least we will have the satisfaction of knowing that at one time the facts were displayed before us for our consideration.

The gentleman from Michigan (Mr. RUPPE) has made an eminently rational suggestion. He said that we really do not have any idea of what rate we will need to repair these orphan lands. I agree, we should repair them, and he said, and this is of interest to the people back home, that this bill is going to place an onerous burden on the people as it is. Let us make that burden as light as the need demands.

It seems to me we cannot in any good conscience oppose the amendment of the gentleman from Michigan, because it is moderation personified. Had I been given the opportunity the gentleman was given, I would have struck the reclamation fund entirely, because I am convinced that, as pointed out by the gentlelady from New Jersey (Mrs. FENWICK) and several others, especially the gentleman from Michigan (Mr. RUPPE), that this is not basically a reclamation fund. This is a bucketful of goodies for everybody who has not been included in some heretofore glorious enterprise associated with this bill.

This will not only permit natural disaster repairs in States other than surface mining, this will permit the expenditure for the rehabilitation of alcoholics, that alcoholism brought on by the stress of having new industry in the area.

I think we will all agree that is a very worthy situation, but one that the electrical consumers across this country can hardly bear. So it seems to me we do a great disservice to our constituency if we do not support the amendment of the gentleman from Michigan; but more important than that, we do more harm to the concept, because the concept has been destroyed by the addition of the boatload of goodies we have already included in it.

If there is a delay in the reclamation of the orphan lands that the gentleman from Ohio (Mr. HAYS) referred to so dramatically, the 80-foot-high walls left in this area, if there is a delay in the repair of that, it is not because this fund is not being contributed to at a fast enough rate, it is because there are so many other goodies chewing away at the fund that it is impossible to accomplish the original mission.

So do not be persuaded by the very excellent rhetoric that would repair damage that 99 percent of us have not seen or heard of. Do recall that we all have to defend our constituents that are concerned about their electric bills.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent Mr. RUPPE yielded his time to Mr. STEIGER of Arizona.)

Mr. STEIGER of Arizona. I thank the Chair and I would hope that we recognize that it is a perfectly responsible position to tell both those that are talking about reclaiming abandoned land, orphan lands and destroyed lands, as well as the constituent who is concerned about his electric utility bill. We can serve both those unlikely masters at the same time by supporting the amendment of the gentleman from Michigan.

In the faint hope that this is understood by all those here who represent but a fraction of those who are voting, we at least here have the satisfaction of having opted for both these very attractive options.

I, in turn, would like to return the unused portion of the gentleman's time.

Mr. RUPPE. Mr. Chairman, I want to compliment the gentleman in the well for his statement, and point out that the language in the legislation suggests that we can use the moneys to fight any natural disasters around the United States.

I would simply like to point out that I do not believe the individual consumer in my district, when he goes at the end of the month to pay his utility bill, would like to know that we are giving a portion of that bill to combating natural disasters of unknown nature in some other part of the United States.

Mr. UDALL. Mr. Chairman, I want to get some legislative history very clear. This language on page 205 which my friend from Michigan refers to about natural disasters or catastrophic failure was written in there because of the Buffalo Creek incident. Here was a mine tailings impoundment which broke and where miners and other people were lost.

In this fund we are simply trying to provide limited assistance to effect natural disasters which impact the coal mine industry, and not disasters that have no relation to the industry. I think the language says that. If it does not, I want to make it very clear that it does. That is the intent and purpose of it.

Let me make it clear that the committee has been up and down the lot. We had at one time $2.50 and finally ended up with 35 cents on surface and 10 cents underground. The gentleman from Ohio (Mr. SEIBERLING) wants to change the 35 cents to 50 cents. The gentleman from Michigan wants to cut the 35 cents to 10 cents. Both of them ought to be defeated.

We will have a good, adequate abandoned mines fund if we take the committee's position of 35 cents, which is three and a half times on the surface mined coal what we are putting on underground mined coal. This will give us some $130 million a year. We can do both reclamation on abandoned lands and cleaning up water in the East and take care of the impact in Montana and some of those other areas.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, if the gentleman from Michigan had some abandoned lands in this State and if he were closer geographically to the terrible desert areas that have been created by bad mining practices, he might feel differently about this.

I think it is good that we are debating this on St. Patrick's Day, because what we are talking about is the re-greening of great areas of America.

I just want to talk about the cost. In 1967, the average price of bituminous coal, as shown on page 75 of the committee report, was $4.62 per ton. In 1974, it was $15 per ton. That is a price increase of more than three times. Yet the cost of coal production did not go up anywhere near that much. So, I submit that if we add 50 cents per ton to the cost of mining coal, we are unlikely to affect at all the price of coal to the consumer. There is that much cushion in the coal price.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE), as a substitute for the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there there—ayes 19; noes 44.

Mr. SEIBERLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'DADE

Mr. McDADE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McDADE: Section 401 of the Committee amendment in the nature of a substitute is amended as follows:

Page 193, strike out lines 20 through 21 and insert in lieu thereof the following:

"(3) appropriations made to the fund, or amounts credited to the fund, under subsection (d)."

Page 193, beginning on line 24, strike out "and enforcement and collection of the fee as specified in subsection (d)."

Page 194, strike out line 9 and all that follows down through and including line 2 on page 195 and insert in lieu thereof the following:

"(d)(1) In addition to the amounts deposited in the fund as specified in paragraphs (1) and (2) of subsection (b) there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated, such amounts as are necessary to make the income of the fund not less than $200,000,000 for the fiscal year ending June 30, 1975, and for each fiscal year thereafter.

"(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 for each of such fiscal years, as provided in paragraph (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act. Moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purposes of this title."

Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(Mr. McDADE asked and was given permission to revise and extend his remarks.)

Mr. McDADE. Mr. Chairman, this is an amendment which I offered when this bill was before the House last summer, and the House adopted it. I am asking the Members to do the same thing today.

The Members have heard before us today discussions about the level of taxes that ought to be imposed, upon the use of coal in this country, taxes which I submit to the Members will end up one place, on your consumers, on the consumers of this Nation. Sixty percent of the electric power in this Nation is generated by coal, and in many districts in this Nation there are those who still use coal to home heat, to space heat. They are among the lowest income groups in this Nation. Many live exclusively on fixed income.

If the Members let this tax that is in this bill go through, you are going to tax that group not once but twice, once when they buy their electricity and again when they heat their homes. You are going to impose a consumer tax on a class of people, not all of the people, but a class of people in this great Nation of ours.

That, to me, is fundamentally unjust, especially when there is a viable alternative around.

And what is that alternative? The words "energy crisis" have been used here many times today. As a result of that energy crisis, our Nation finds itself exploring for oil in the public lands owned by the people of this Nation, auctioning, if you will, the right to drill for oil on publicly owned lands in the Gulf of Mexico and, indeed, in other places. That single activity generates to the Treasury of the United States in this fiscal year almost $7 billion—$7 billion—and all I want the Members to do in this bill is to say "No" on a tax on consumers, not to put a double tax on some consumers. Let us simply earmark part of those OCS funds, a small part, my colleagues, representing about 2 percent of total receipts.

As I mentioned to the Members, the flow to the Treasury is $7 billion. All I am asking the Members to do is to earmark $200 million.

You have already heard the reclamation fund described by many as not adequate, as being scaled back, as a retreat from the funding level of last year's bill.

Let us make it adequate, let us make it $200 million a year and get on with the task of doing it.

Some will argue to us, "Don't worry about it. You won't really feel this tax. Your consumers won't hear about it. It is a small tax on electricity and coal, and they won't really know it is there."

Mr. Chairman, I will ask the Members to read the committee report, because the amount of dollars that is being committed under this bill and under this tax approximates $10 billion taken from that narrow class of consumers and, I submit to my colleagues, that they are already heavily overburdened by energy costs in this country.

This is a chance to do something to stop the increase in prices of energy to our consumers and do it in a way that will let us treat it as a national obligation of the people of this country.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to my friend, the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I thank the gentleman for yielding.

I appreciate the gentleman's efforts in bringing up this amendment this year. I supported him last year, and I shall support him this year.

I think the amendment makes all kinds of sense from two standpoints: No. 1, it is my impression—and in this I share the opinion of the gentleman in the well, the gentleman from Pennsylvania—that this amendment would probably increase the size of the fund we are talking about.

Mr. McDADE. Mr. Chairman, I will say to my colleague that it will put this fund at $200 million per year. The fund that has been spoken of now has been scaled back by the committee, and there are arguments about how much of a tax to put on the consumer. It is a difficult question.

In this way we do not put that tax on, but we put this fund at $200 million a year and get it operating at that level.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. McDADE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, one additional reason I support the gentleman's amendment is, not only for the reasons he argued, but also for the reason that it provides a definite sum available that can be counted on. We do not know how big the fund is going to be under the bill.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. McDADE) has expired.

(On request of Mr. EVANS of Colorado and by unanimous consent, Mr. McDADE was allowed to proceed for 2 additional minutes.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. McDADE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. So Mr. Chairman, I am glad the gentleman has proposed this amendment. It gets away from the taxing of the people such as is contained in the bill and as described.

Mr. McDADE. Mr. Chairman, I thank my colleague for his remarks.

I wish to point out to my colleagues in the House that we have precedents for this. My colleague, the gentleman from Colorado, and I sit on the Appropriations Committee for the Department of the Interior now, and we administer the only lien that exists in the Federal Government against that $7 billion that goes into the Treasury as a miscellaneous receipt. That is the Land and Water Fund.

My colleague, the gentleman from Colorado, and I have seen it work effectively. We all know of it. It is one of the fine programs this Congress has enacted. It works, and it has a stable fund. It is reliable, because we know that the funds will be there.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I wish to associate myself with the gentleman's remarks, and I support the gentleman's amendment.

Most important of all, I am glad there is some Member in this body who recognizes that the consumer has a great deal at stake here. The gentleman has addressed that in a most positive fashion.

Furthermore, we recall that he said to the gentleman, with the shadow of a smile, that: Every single utility company is able to pass through the cost of fuels, that cost that occurs in the generation of electrical energy.

Mr. McDADE. Mr. Chairman, almost every utility in the country has a direct passthrough clause. We have seen those rates climbing and climbing.

We, the people of this country, are getting an energy dividend because we are now using the public lands for the production of oil. This is $7 billion in miscellaneous receipts to the country. It is used for any purpose that the Executive sees fit, without any real control.

If we earmark $200 million, if we establish a stable, reliable fund that avoids increasing costs to any consumer, which avoids putting on taxes and avoids, if you will, any tax injustice by hitting one class of consumers and them alone, we can get this job done properly.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. McDADE) has expired.

(On request of Mr. BUCHANAN and by unanimous consent, Mr. McDADE was allowed to proceed for 1 additional minute.)

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I just want to say to the distinguished gentleman from Pennsylvania that his eloquence has persuaded me, and I shall vote for the amendment.

Mr. McDADE. Mr. Chairman, I thank my colleague most sincerely for his support.

I hope that when it comes time to vote, my colleagues from the 33 States in this Nation which get virtually all their electric power from coal sources will take a look at this and see if there is an alternative to going back home and saying, "Yes, we took 9 billion from you when we have got money coming in the Treasury now under miscellaneous receipts that we can apply to this problem." Let us remove this pox on some of our consumers. Let us earmark a small percentage of the $7 billion now flowing into our Treasury as a miscellaneous receipt. Let us not constantly draw up the cost of energy to the American people.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

The gentleman from Arizona (Mr. STEIGER) was complaining about the rhetoric. Apparently it depends on who is putting out the rhetoric, because we have had mostly rhetoric on this amendment, and I would like to put a few facts in the RECORD.

The facts are, first of all, that there will never be a fuel adjustment clause passthrough unless the price of coal to the electric companies goes up. As I have already stated, the price of coal has risen from $4.62 a ton on an average in 1967 to $15 a ton in 1974.

But let us take a look at the profits of the coal companies. On page 75 of the committee report there are some selected profits from coal companies for the third quarter of 1973 versus the third quarter of 1974. Here the percentage changes.

Pittston had a percentage increase of 787 percent; Westmoreland Coal Co. had a 1,242 percent increase; Consolidation Coal Co. had a 7,860 percent increase; and Island Creek Coal Co. had a 3,690 percent increase.

Unless there is a conspiracy to restrain trade in the coal industry, adding the small additional cost of the reclamation fee to the cost of producing coal, will not increase the price. It will simply take a little slice out of the profits of the coal companies.

Therefore, we are not necessarily adding one dime to the cost to the consumer. We are merely producing a slight windfall profits tax against these astronomical profit increases that the coal companies are experiencing now.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I point out to my colleague, the gentleman from Ohio (Mr. SEIBERLING), that last year he proposed a $2.50 tax, did he not?

Mr. SEIBERLING. I did propose a gross reclamation fee of $2.50 per ton.

Mr. McDADE. That means nothing to the gentleman?

Mr. SEIBERLING. Let me point out that in addition to reclamation of orphan lands, the proposal allowed as a credit against the fee the cost to the coal operator of coal-mine safety, the cost of reclamation, the cost of severance taxes, so that the actual cost to the coal mining company was far, far below $2.50 per ton. It was an effort to have the deep-mining industry in the gentleman's State and elsewhere, by avoiding the competitive imbalance against deep coal mining that was imposed by the present coal-mine safety laws.

Mr. McDADE. I think the way to do it is to let it function in a way that does not add increased costs to the consumer. If the gentleman wants to try to tamper with the market forces between surface and deep-mining in this bill, that is his prerogative, but I do not choose to join in it. What I would do is regulate the industry, and establish a reclamation fund that will protect the consumer and that will avoid the $9 billion costs under these figures.

If the gentleman had his way, the coal tax probably would be $3 or $4 a ton.

Mr. SEIBERLING. If the gentleman will wait a moment, I will reply to that. I simply would like to point out that all he does is take the cost away from the coal industry and sock the taxpayers for it. If one takes $200 million out of the offshore oil revenues, he will be simply taking that much revenue away from the Federal Government which must be made up either by taxes or deficit financing.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, I would like to say that again we are getting to a proposition that says that there will not be any funds for impact in the West as we strip the coal out in our States.

The gentleman from Pennsylvania offers us a formula to arrive at some funds for reclaiming abandoned and orphaned land, but in doing so, he knocked out the basis that is carefully worked out in the bill to allow one-half of the 35-cent-a-ton fee collected by strip mining to remain the area where it is mined, for a State or an Indian reservation, to meet the social impacts and to remain in those areas for needs such as roads, schools, and health care and any other facilities that are necessary for promoting the public good.

I therefore have to very vigorously oppose the gentleman's amendment. Mr. Chairman, I urge that the House defeat the amendment.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 1 minute each.

The Chair recognizes the gentleman from Utah (Mr. McKAY).

(By unanimous consent, Mr. McKAY yielded his time to Mr. UDALL.)

The CHAIRMAN. The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I think it is important to point out that the amendment offered by our colleague, the gentleman from Pennsylvania, is a consumer-oriented amendment. At the same time, it is totally cognizant of the need for conservation in this country.

It provides funds for reclaiming old, abandoned strip mined lands, but it does not do it at the expense of the consumer who is already too heavily overburdened, and it does not do it at the expense of urging people to use more coal, which is an abundant energy source in this country, and away from using the oil and the natural gas that we do not have in abundance.

Why, at a time of crisis when the Congress is beginning to move itself to solve

the energy shortage, and we are telling people to burn more of the fuel that we have, do we want to tax that fuel and, in effect, by the taxing vehicle dissuade people from burning the coal which is our main source of energy?

Because it helps resolve the shift from foreign oil, this is a consumer oriented amendment, and I hope the House will support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

(Mr. HUGHES asked and was given permission to revise his remarks.)

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

Mr. Chairman, I did not expect to get into a discussion about drilling on the Outer Continental Shelf, but since my colleague, Mr. McDADE, has opened the subject up to debate, I would make the following points.

The Supreme Court today ruled in favor of the Federal Government on the question of ownership of mineral rights on the Outer Continental Shelf—the Maine against United States case.

To coastal States and, more particularly, to districts such as New Jersey's Second—which receive billions of dollars a year in tourist trade—the Supreme Court ruling has a clear meaning.

It is that we are going to have to accelerate plans for onshore contingencies to consider adverse onshore economic and environmental impact.

That is why I and other representatives of coastal States have been arguing for a coastal zone impact fund as well as an offshore oil pollution settlements fund to compensate those injured by offshore exploration.

And where are these millions of dollars to come from? From the same tax that the gentleman, with good intentions, wants to divert to reclaim areas damaged by strip mining.

Let us treat these questions one at a time. If we are going to talk about strip mining, let us keep to the subject. If we are prepared to shift the focus to plans for developing the Outer Continental Shelf, I am willing to discuss that. But let us not talk about slapping a tax on future Outer Continental Shelf leasing to pay for strip mine reclamation.

Oil and gas prices are high enough, Mr. Chairman, without further encouraging an additional increase which the passage of this amendment would insure. It is especially difficult to justify in light of the 800-percent profits some coal companies enjoy.

I am sure that my colleagues from neighboring Pennsylvania and I will agree on future bills and amendments. But not this one. Mr. Chairman, I ask that the amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. KETCHUM).

(Mr. KETCHUM asked and was given permission to revise and extend his remarks.)

Mr. KETCHUM. Mr. Chairman, it has been interesting to listen to the debate on this amendment. Let me inform the gentleman that I also will be as parochial as everybody else has been. I watched the parochialism as far as the mining of coal is concerned, and I also watched the parochialism of Montana as far as the economic field is concerned, and also the parochialism from the Dakotas.

So I would ask the gentleman from Pennsylvania (Mr. McDADE), why does the gentleman think that we should take these funds from the offshore leasing of oil when we have not offered one penny to any State that has oil lying offshore that is being drilled, for the damage that has been brought on by the offshore drilling?

When we are prepared to do that, then I will be prepared to go along with such an amendment. I think that we should be honest about the damage that has been brought about by strip mining, and that is that this damage was brought about for the benefit of all the people. I think we ought to be honest about it, and that we should take the money out of the general fund, and set up a fixed amount for doing this. But there is absolutely no way that such an amendment would pass.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. EVANS).

(Mr. EVANS of Colorado asked and was given permission to revise and extend his remarks.)

Mr. EVANS of Colorado. Mr. Chairman, due to an oversight, I believe that if the amendment were to pass it would destroy the provision that is already in the bill to hold half of the funds for the beneficial use of all of those areas impacted by the development of various coal deposits. Therefore, with regret, I withdraw my support for the amendment.

PREFERENTIAL MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. CONTE moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 5 minutes in support of his preferential motion.

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

Mr. CONTE. Mr. Chairman, I rise to support the amendment offered by the the gentleman for Pennsylvania.

We do not need a tax on coal. We must reclaim our lands that have been ravaged. But in reclaiming these lands, we should look upon them as an investment. This is why the use of revenues from the sales of offshore lease sales is important.

I say "investing" because we have embarked upon a national commitment to develop our national energy supplies, and coal—our most abundant fossil fuel—is a key to such a comment.

The bill before the House today establishes procedures for the production of coal is an environmentally sound manner. But while we proceed to develop new energy sources, we must not ignore the 1 million acres of abandonded, mine-damaged lands which still scar our country.

While no one disputes the need to make a commitment to reclaim abandoned mine lands, the question is how to fund it. I want to move away from the taxing concept found in H.R. 25. We rejected that concept last year. We said then: "No tax on coal." But here the coal tax is back with us again.

Any tax approach does two things, neither of which we want. First, a tax directly increases the cost of coal to the consumer. Under tax approaches, these consumers are asked to shoulder the burden of 100 years of mining waste. This is not reasonable.

Second, any user charge imposed on, centive. If the House has recognized the expanding need for coal as an energy source, and I believe it has, how can it turn around and slap a disincentive on its production? We do not need such inconsistencies.

The approach of the McDADE amendment is simple. It takes the resource dividends we are gaining now through our Outer Continental Shelf lands and returns a small amount of these funds to reclaim the damage done in gaining another energy resource, coal.

The McDade amendment provides for funding the abandonded mine reclamation fund from three sources:

First, the sale, lease, or rental of lands reclaimed pursuant to title IV of the committee bill;

Second, and user charge imposed on, or for, land reclaimed pursuant to title IV of the committee bill, after expenditures for maintance are deducted; and

Third, from up to $200 million appropriated annually from the Outer Continental Shelf receipts.

At the present time, large revenues are accruing to the Federal Treasury from bonus bids and royalties stemming from Outer Contental Shelf lands. These increasing revenues represent our national effort to bring the oil reserves offshore into production.

These funds are plentiful and available. In fiscal year 1974, $6.8 billion was paid into the Federal Treasury. For this year, the revenues may reach $7 billion.

These are resource dollars, and they are general revenues. A small share of these funds is earmarked for the land water conservation fund. We should earmark another small percentage for reclamation of coal lands.

Mr. Chairman, a basic problem with our national energy policy has been a lack of coordination. To pull the Nation out of the energy hole, we must look at the total problem.

Coal cannot and should not be developed independently from other energy efforts.

This amendment is a meaningful step forward in a national strategy to invest our mineral receipts wisely in a program of land reclamation. The concept of an abandoned mine reclamation fund is vital to this bill.

I urge my colleagues to support this amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the preferential motion offered by the gentleman from Massachusetts (Mr. CONTE).

Mr. Chairman, I am not going to take my 5 minutes. I think we are about ready for a vote on the McDade amendment. I want a bill which will end the assault on our land by coal strip mining and make those practices responsible. I also want an abandoned mines fund, and if the price of getting a strip mining bill is the McDade formula for financing the fund, I would support it, as I did last year.

The hard, cold, practical fact is that we have to go to conference on this bill, and we are not going to get a bill this year, this spring, as I want, if we load it down with this kind of financing that I supported in the bill we had in the last Congress. The Senate made a number of objections, and they are going to be there again. We are going to have to meet them.

One is that these outer continental shelf revenues are not manna from heaven that drops down at the rate of $900 million a year that go into the Federal fund. If they are expended for specific purposes, they are not there for the deficit or to use for other purposes. There is competition for these OCS funds. Right now we drain $400 million a year for the Land and Water Conservation Fund, and I support that, and to the extent we are adding $200 million more, we are competing. And beyond this, and more importantly, the Coastal States are very bitter about this, and it has been already expressed here this afternoon. They say here they have these tremendous impacts from offshore drilling, tremendous impacts on their roads, on their highways, on their schools, and support services, yet they are getting nothing out of these revenues.

Here we are from the coal-production States, coming in and putting a tax on the revenues from offshore oil production in order to repair some of the ravages in the coal-mining States.

And so they are simply not going to be receptive.

The committee did the responsible thing and did the necessary thing by cutting back the fund. We have cut it back from $200 million to about $130 million. The financing is not burdensome and it is not going to drive up the utility costs, or it is not going to cause inflation or do any of the things that have been talked about.

I think the sensible way for the people who want a strip mining bill and who want a good bill that will do something in the next 40 or 50 years about abandoned land is to support the bill and vote down the preferential motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. CONTE).

The preferential motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Chairman, legislation such as this Surface Mining Control and Reclamation Act forces us, as policymakers, to make choices, and to come face to face with the fact that we cannot ever hope to achieve all goals which we may feel are desirable.

We would all like to beautify the environment, and there can be no doubt that the existence of strip mines runs counter to that goal. But the use of low-sulfur coal is also in the best interest of a clean environment, and much of that coal comes from strip mines. Is it then in the best interest of the environment to encourage or discourage strip mining? The choice is difficult.

We also have economic and energy goals. We simply must make a better utilization of our coal resources if we are to reduce our dependence on petroleum as an energy source. How does this affect the equation?

And in these difficult economic times, we must be ever watchful of the effects of our actions on employment. In that regard, we must be careful not to cause undue problems for our industries, problems which would tend to further exacerbate their current difficulties, and lead to greater unemployment.

In that regard, I was interested to meet last week with a delegation of officials from the Caterpillar Tractor Co., the largest employer in my district, and a company which has been working diligently to meet its environmental responsibilities. They have prepared a study of the effects of the Clean Air Act of 1970 on their operations, and as much of it bears on our discussion today, I should like to have it appear at the conclusion of my remarks addressed specifically to this amendment.

Mr. Chairman, I support the McDade amendment to abolish the proposed reclamation fee of 35 cents a ton on surfaced-mined coal and 10 cents a ton on deep-mined coal, and to finance the Abandoned Mine Reclamation Fund with $200 million per year from Outer Continental Shelf leasing revenues.

ARGUMENTS IN SUPPORT OF AMENDMENT

First, at a time when we are passing tax reduction legislation in an effort to stimulate the economy, it seems highly inconsistent that we should be talking here about tax increases.

Second, both bodies of Congress passed legislation seeking to prohibit the President's oil import tax, obstensibly because of its inflationary impact, yet the committee now proposes a similar tax on coal.

Third, it is even further incongruous that at the same time Congress rejected a tax on the fuel we are trying to curtail—oil—it is being urged to accept a tax on the one fuel we have in abundance—coal.

Fourth, at a time when many Americans are becoming financially pinched by higher and higher electric bills, it does not make sense to further add to utility bills regardless of what the addition amounts to. If anything, we need movement in the opposite direction.

Fifth, Mo UDALL on the floor last year called the McDade amendment a "very innovative proposal" and he added that by this approach, "we do not have to fight the howl of the utility companies and their customers who say they will have to pay for past sins, and we do not have to fight the fight of east against west, and we do not have to fight the fight of deep mines against surface mines."

Sixth, if we need reclamation in the case of abandoned mines, and this is declared as a national policy, which I think it should be, the cost should most properly be borne by the Nation as a whole rather than one particular segment.

Seventh, the committee reports points to the urgency of the problem and cites the total cost of rehabilitation as being in the neighborhood of $10 billion. In this regard, it is important to note that the McDade amendment would provide $200 million a year, compared with only $125 million throughout the committee's proposed fee.

The material referred to follows:

CLEAN AIR ACT OF 1970

BACKGROUND

Prior to 1970, a variety of legislation, both federal and state, sought to clean up the nation's air. Voluntary response was anticipated by most of these laws. By 1970, even though some improvement had been accomplished, government and its agencies had labelled progress as unsatisfactory; industry had moved too slowly. It was about this time, too, that public sentiment, undoubtedly influenced by the social programs of the Johnson Administration, strongly supported stricter regulation of pollution sources. Simultaneously, other developed nations around the world began reassessing the environmental impact of an industrialized society. In some cases; e.g., Japanese waters, it was realized that polluting by one industry could have deleterious effects on another when exceedingly high mercury levels forced curtailment of the country's fishing industry. In general, however, the appeal was for "quality of life" rather than for economic benefit, and a prosperous world economy made prospective costs seem reasonable to legislators. Environmental control became the watchword of the public as long as someone else, mostly "industry," was paying the bill. The fact that the public would ultimately bear the cost was not widely understood.

In 1970, "Clean Air Act" amendments were passed as a response to this pressure. This law requires the Environmental Protection Agency (EPA) to establish national ambient air quality standards specifying the maximum permissible atmospheric levels of specified pollutants. "Primary" standards set an air quality level designed to prevent damage to human health. "Secondary" standards are aimed at protecting the public welfare. (The EPA was formed by combining agencies and units from 15 existing government departments, only four weeks before the Clean Air Act was signed into law. EPA is an independent agency whose head reports directly to the President.)

Major responsibility for enforcing these clean air standards has been assigned to the states. Under the 1970 act, each state was required to develop a federal EPA-approved plan calculated to achieve the primary ambient air quality standards by mid-1975. (The actual date varies slightly from state to state, depending upon when EPA approved the respective plans.) Under each state's plan, limits must be set on emissions of pollutants . . . so that EPA-defined national air quality standards may be achieved. In addition, national (rather than state) emission

standards govern twelve categories of *new* stationary sources, and all sources of certain hazardous pollutants (viz., asbestos, beryllium and mercury), motor vehicles and fuels.

Since the Clean Air Act became law, Congress and the EPA have shown at least some flexibility in changing and interpreting the law and regulations to confront altered circumstances. For example, as noted by the Council on Environmental Quality, events of the 1973-74 winter made it clear that "energy policy and air pollution policy are inseparably related." Recognizing this relationship, in late 1973 . . . just five days before the Arab oil embargo . . . EPA instituted a short-term variance procedure for certain states heavily dependent on imported oil for the generation of electricity.

The agency also identified power plants that could convert to coal with less environmental risk. Later the Congress passed the "Energy Supply and Environmental Coordination Act of 1974" . . . also in response to the energy crisis. This act encourages the use of coal and the development of coal mines and prohibits some industrial use of natural gas or petroleum products for generation of power. In addition, it requires the EPA to review all state emission regulations to determine if they are stricter than necessary, as compared to the ambient air standards.

Environmental concerns over the burning of coal is caused in part by the sulfur dioxide (SO_2) emissions. A recently completed study by the Department of Health, Education and Welfare, as reported by the National Institute of Environmental Health Sciences, emphasized that SO_2 alone is of relatively low toxicity. The study suggested that danger to health arises when SO_2 is converted into sulfates or sulfuric acid . . . and that this conversion is caused by sunlight, photochemical oxidants, or the catalytic effect of certain particulates in the air. The study concluded by stating "that since these processes are not fully understood, and since epidemiological studies of health effects are still incomplete, that further scientific information will be required to either validate the present standards or justify alteration in these standards."

CURRENT PROBLEMS

As the mid-1975 deadline for emission standards nears, it has become apparent that numerous sources around the country will be unable to comply with EPA standards. Two factors are the key elements here: a shortage of clean fuel and non-availability in merchantable quantities of flue gas desulfurization systems (commonly labelled "scrubbers").

Termed the "clean fuel deficit," authorities proclaim that there is an insufficient supply of low sulfur coal for all sources to meet 1975 standards without use of scrubbers, intermittent control systems, or other forms of direct control of atmospheric SO_2 levels. The clean fuel deficit is estimated by EPA and others at 200 to 250 million tons this year alone . . . or roughly the same amount as the supply of "clean" coal presently being mined.

At the same time, energy self-sufficiency, an avowed national goal, dictates that coal production will have to be increased markedly in the next few years. The National Coal Association estimates that over 250 additional mines will be needed . . . with 125,000 new miners, four new 1,000-mile slurry pipelines, 8,000 new locomotives and 150,000 new gondola, hopper cars and many miles of track rebuilding. Obviously, coal from these new mines, in many cases being located in isolated parts of the country, is going to be more expensive than much of that presently being used.

Even if the Congress and the Administration were today to resolve their differences over regulation of stripmining of government-owned lands in the West, mines could not be developed to meet the national requirements in time. And no one who has witnessed the fiasco that large-scale grain movements made of our national transport system in the last few years seriously believes that we are logistically prepared to move the low sulfur coal once it is mined.

The "clean fuel deficit" could be considerably eased, although possibly not eliminated, by the use of scrubbers. Major coal burners (primarily electric utilities) contend that scrubbers are not technologically advanced enough to do the job. Putting aside this contention, however, the fact remains that even if the technology exists, there simply aren't enough scrubbers to go around. The Council on Environmental Quality, in its *Fifth Annual Report*, has pointed out "the impossibility of having stack gas cleaning technology fully operational in more than a few of the powerplants requiring major SO_2 reduction" until after the deadlines imposed by the Clean Air Act have passed. There is also concern over disposal of the sludge created by current scrubber chemical processes.

A more basic solution would be to effect controls only where needed. The designation by EPA of many areas of the country as having sulfur dioxide and particulate levels above primary standard levels was on the basis of information of debatable value. Adequate monitored data was not available. Substantial amounts of reliable data have been accumulated since the original EPA rulings. Where it can be irrefutably shown that controls are not required, the implementation rules should be amended. Should this occur, relaxation could be more widespread than might be expected.

Acknowledging the conflict between energy conservation objectives (use more coal) and Clean Air Act mid-1975 deadline, President Ford, in his State of the Union message, and the more detailed January 30, 1975 amendatory proposal to Congress, called for allowing use of intermittent controls and other methods up to 1985 for limited sources . . . in order to allow time to achieve technological development that would result in energy-self-sufficiency and a wholesome environment. His proposal, however, left the bulk of sulfur dioxide and particulate sources without a solution to this compliance problem.

President Ford has also asked the Congress for an amendment to clear up a second major problem of the Clean Air Act: the "non-degradation" and "significant deterioration" issue. Briefly stated, courts have interpreted the law to mean that states having regions with air cleaner than secondary ambient air quality standards may not allow significant deterioration of the air. Court battles continue over the issue of definition. It is easy to see that literal interpretation of the act could render whole states unavailable for significant industrial development. If the present rules and regulations promulgated by the EPA as a result of the court order to assure non-degradation remain in force, then the Clean Air Act may determine where plants are built, where highways are built, and even where parking lots are built . . . and how large they will be. Lack of resolution of this issue will certainly affect delay investment decisions. Congress has—perhaps inadvertently—created a national land-use bill.

Caterpillar products are also affected. As a builder of diesel truck engines, we are required to obtain certification of engines for sale in new, heavy duty motor vehicles. At first the EPA regulations covered smoke only. Since January 1, 1974, regulations have also included gaseous emissions.

Besides obtaining and keeping valid certificates to cover the engine families sold, a manufacturer has to practice and keep records of his quality control measures to convince the EPA that engines shipped remain in all material respects the same as the prototypes tested. Further, there is a useful life requirement that an engine comply with the regulations for 100,000 miles, 5 years, or 3000 hours, whichever first occurs, providing that the engine receives the manufacturer's recommended maintenance.

As time goes on there is an increase in complexity and cost of certification.

EPA is also considering the classification of reciprocating engines used in stationary applications as a source requiring air pollution control . . . even though preliminary evidence shows the total emissions of various oxides of nitrogen to be only about 1½% of the U.S. total. If adopted, it will require the application of "best emission control technology available" to millions of engines. Under consideration are very small gasoline engines, such as those powering lawn mowers, on up to large power plant size Caterpillar diesels.

Once EPA has decided that engines of this sort constitute a stationary source pollution category, no consideration will be given to their geographic location or to their impact on local air quality.

The regulations will affect the user directly, but since he has no way of demonstrating compliance, it is anticipated that the burden will fall on the manufacturer. Costs cannot be accurately predicted without knowing what emission limits will be applied and what procedures will be required for demonstrating compliance. However, the costs are expected to far outweigh the emission reduction benefits.

ECONOMIC IMPACT

Complicating all of these factors is the heavy, "non-productive," investment required to comply with EPA guidelines. Senator Proxmire recently called attention to estimates of 1972–1981 pollution control expenditures of $274 billion. The Council on Environmental Quality estimate for the 1973–1982 period is $325 billion . . . of which $142 billion, or 44 percent, is accounted for by capital investment and operation/maintenance of air pollution abatement. But the environmentalists argue that the costs of *not* controlling air pollution are also high. EPA, for example, argues that over $6 billion a year is incurred in sickness, lost time, medical bills and premature death . . . all as a result of air pollution. Adding in an estimated $0.1 billion annual impact on crops and vegetation, and $10 billion annually for damage to materials and residential property, results in an estimated cost of not abating polluted air at just over $16 billion annually. In addition, EPA argues that environmental investment is "productive" in that thousands of new jobs will be created to resolve our problems. Many authoritative analysis regard the EPA arguments as oversimplified. They point to a recent EPA-commissioned analysis (by Chase Econometrics) which forecasts a reduced annual investment in productive plant and equipment of almost forty cents for every dollar spent on pollution control.

IMPACT ON CATERPILLAR

Caterpillar operates several coal-burning heating plants. Illinois plants burn local coal . . . which has a moderately high sulfur content (2.5–3.5%). A prototype flue gas desulfurization system (scrubber) was recently placed in operation at Joliet, and installation of another system is under way at Mossville. Also, scrubbers require large crews to operate around the clock, use great quantities of chemicals and produce tons of sludge each day.

These systems have not been fully tested nor are units of this type available in merchantable quantities to meet the present market demand. Unless the act is amended to clarify the state's right to grant variances beyond the mid-1975 deadline, three

Caterpillar Illinois plants will be among those whose continued operation will be in question. This problem is complicated by the fact that it takes nearly three years to design, construct and place SO_2 removal systems in service once the criteria for design has been established.

CATERPILLAR POSITION

Caterpillar has long supported efforts to improve and protect the environment in which we live and work. Prototype scrubbers at Joliet and Mossville are among the first in the nation, but it remains to be determined whether they will be effective and the best system for removal of SO_2. Caterpillar, being among the first scrubber users, will install them at our other plants which utilize high sulfur coal, or alternatively use the preferred method (if other than scrubbers) as soon as such determination is made.

Due to the problems with this legislation as it is now written (inflexible mid-1975 deadline, lack of recognition of control methods . . . other than scrubbers, and the nondegradation issue) Caterpillar believes the only realistic alternative is amendment of the Clear Air Act. We generally support the principles set forth in President Ford's proposals. We favor an amendment that would permit each state to grant variances — with variances requiring a source-by-source commitment to an "affirmative action" type compliance plan, with attainment of emission control standards by the earliest possible date . . . with a mid-1985 absolute deadline. Under present law we have reluctantly adopted the scrubber concept in the absence of any other acceptable control methods for our application. We will seek flexibility in the law to allow whatever type of control system is best suited (on a case-by-case basis) to satisfy the primary and secondary ambient air quality standards. We also believe that any requirement of air quality more stringent than primary and secondary standards (except for a few pristine areas that have nationally recognized public value) is indefensible, and that the "significant deterioration" issue should be resolved by so amending the Act.

Caterpillar is working with state and federal government in order to bring about these necessary changes . . . and in a way that will most practically contribute to achievement of our national environmental objectives.—Public Affairs Department.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, we have heard some more rhetoric about how this is going to add to the costs of the consumers. I will simply cite the facts in the committee report which I have already alluded to, to show that the tremendous escalation of the price in coal in the last few years is such that if we do have a free market in coal—and I must say there is some doubt whether we do—then this is not going to add to the cost to the consumers. This will be in the form of a reduction of the windfall profits that the coal companies are presently earning.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Chairman, I would remind the Committee that we have worked out a bill which says half the funds collected from the 35-cents-per-ton fee on strip mined coal are to be returned to the States and Indian reservations for the social impact and to meet the needs of the people who are involved in the mining and energy development. It is very necessary that we have that. The McDade amendment unfortunately would eliminate that provision from the bill, so I must vigorously oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MCDADE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McDADE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 250, not voting 42, as follows:

[Roll No. 55]

AYES—140

Abdnor	Ginn	Nix
Andrews, N. Dak.	Goldwater	Ottinger
Ashbrook	Goodling	Perkins
Barrett	Grassley	Pritchard
Bauman	Guyer	Quie
Beard, Tenn.	Hagedorn	Quillen
Bennett	Hammer-schmidt	Railsback
Bevill	Hansen	Randall
Biester	Harsha	Regula
Brinkley	Hastings	Rhodes
Broomfield	Heckler, Mass.	Robinson
Brown, Mich.	Hillis	Rooney
Brown, Ohio	Hinshaw	Rousselot
Broyhill	Holt	Ruppe
Buchanan	Horton	Santini
Butler	Hutchinson	Satterfield
Carter	Hyde	Schneebeli
Cederberg	Ichord	Schulze
Chappell	Jeffords	Shriver
Clancy	Johnson, Pa.	Shuster
Clausen, Don H.	Jones, Ala.	Slack
Clawson, Del	Jones, N.C.	Smith, Iowa
Cleveland	Kasten	Smith, Nebr.
Cochran	Latta	Snyder
Conable	Lent	Spence
Conte	McClory	Staggers
Coughlin	McCloskey	Stanton, J. William
Crane	McDade	Steiger, Ariz.
Daniel, Robert W., Jr.	McDonald	Stephens
Dent	McEwen	Stratton
Derrick	McKinney	Stuckey
Devine	Madigan	Symms
Dickinson	Martin	Talcott
Downing	Mathis	Taylor, Mo.
Duncan, Tenn.	Michel	Thornton
Early	Miller, Ohio	Treen
Erlenborn	Mitchell, N.Y.	Vander Jagt
Esch	Mollohan	Walsh
Eshleman	Montgomery	Wampler
Findley	Moorhead, Calif.	Whalen
Fish	Morgan	Whitehurst
Flood	Mosher	Whitten
Flowers	Murphy, N.Y.	Wilson, Bob
Flynt	Murtha	Winn
Forsythe	Myers, Ind.	Wydler
Gaydos	Natcher	Yatron
	Nichols	Young, Alaska

NOES—250

Abzug	Bingham	Byron
Adams	Blanchard	Carney
Ambro	Blouin	Carr
Anderson, Calif.	Boggs	Chisholm
Anderson, Ill.	Boland	Clay
Annunzio	Bolling	Cohen
Archer	Bowen	Collins, Tex.
Armstrong	Breaux	Conlan
Ashley	Breckinridge	Conyers
Aspin	Brodhead	Corman
AuCoin	Brooks	Cornell
Badillo	Brown, Calif.	Cotter
Bafalis	Burke, Calif.	D'Amours
Baldus	Burke, Mass.	Daniel, Dan
Baucus	Burleson, Tex.	Daniels, Dominick V.
Beard, R.I.	Burlison, Mo.	Danielson
Bedell	Burton, John	Davis
de la Garza	Burton, Phillip	Delaney
Deliums	Jordan	Pepper
Diggs	Karth	Pickle
Dingell	Kastenmeier	Pike
Downey	Kazen	Poage
Drinan	Kelly	Prosser
Duncan, Oreg.	Kemp	Preyer
du Pont	Ketchum	Price
Eckhardt	Keys	Rangel
Edgar	Kindness	Rees
Edwards, Calif.	Koch	Reuss
Eilberg	Krebs	Richmond
Emery	Krueger	Riegle
English	LaFalce	Rinaldo
Evans, Colo.	Lagomarsino	Roberts
Evins, Tenn.	Leggett	Rodino
Fascell	Lehman	Roe
Fenwick	Levitas	Rogers
Fisher	Litton	Roncalio
Fithian	Lloyd, Calif.	Rostenkowski
Florio	Lloyd, Tenn.	Roush
Foley	Long, Md.	Roybal
Ford, Mich.	Lott	Runnels
Ford, Tenn.	McCollister	Russo
Fountain	McCormack	Ryan
Fraser	McFall	St Germain
Frenzel	McHugh	Sarasin
Frey	McKay	Scheuer
Fulton	Macdonald	Schroeder
Fuqua	Madden	Sebelius
Giaimo	Maguire	Seiberling
Gibbons	Mahon	Sharp
Gonzalez	Mann	Shipley
Gradison	Matsunaga	Sikes
Green	Mazzoli	Simon
Gude	Meeds	Sisk
Haley	Melcher	Solarz
Hall	Metcalfe	Spellman
Hamilton	Meyner	Stark
Hanley	Mezvinsky	Steed
Hannaford	Mikva	Steelman
Harkin	Milford	Stokes
Harris	Miller, Calif.	Studds
Hawkins	Mineta	Sullivan
Hayes, Ind.	Minish	Symington
Hays, Ohio	Mink	Taylor, N.C.
Hechler, W. Va.	Mitchell, Md.	Teague
Heinz	Moakley	Thone
Helstoski	Moffett	Traxler
Henderson	Moore	Tsongas
Hicks	Moss	Udall
Hightower	Motti	Ullman
Holland	Murphy, Ill.	Van Deerlin
Holtzman	Myers, Pa.	Vander Veen
Howard	Neal	Vanik
Howe	Nedzi	Vigorito
Hubbard	Nolan	Weaver
Hughes	Nowak	White
Hungate	Oberstar	Wiggins
Jacobs	Obey	Wirth
Jenrette	O'Hara	Wright
Johnson, Calif.	O'Neill	Wylie
Johnson, Colo.	Passman	Yates
Jones, Okla.	Patman	Young, Fla.
Jones, Tenn.	Patten	Young, Tex.
	Patterson, Calif.	Zablocki
	Pattison, N.Y.	Zeferetti

NOT VOTING—42

Addabbo	Gilman	Skubitz
Alexander	Harrington	Stanton, James V.
Andrews, N.C.	Hébert	Steiger, Wis.
Bell	Hefner	Thompson
Bergland	Jarman	Waggonner
Biaggi	Landrum	Waxman
Bonker	Long, La.	Wilson, Charles H., Calif.
Brademas	Lujan	Wilson, Charles, Tex.
Burgener	Mills	Wolff
Burke, Fla.	Moorhead, Pa.	Young, Ga.
Casey	O'Brien	
Collins, Ill.	Peyser	
Derwinski	Risenhoover	
Dodd	Rose	
Edwards, Ala.	Rosenthal	
Evans, Ind.	Sarbanes	

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: At page 195, line 2, strike the period at the end of the sentence and add: "; *Provided, however*, That any operator of a coal mining operation who is liable under any law of the United States for payments to any Federal fund for the reclamation of coal-mined land may take as a credit against the amount of such payment due in any year the amount

of any reclamation fee or severance tax for abandoned mined lands paid to the State during that year. Such credits shall not exceed one-half of the amount payable to the United States in any year.

"(1) The term 'reclamation fee' includes an[illegible]e, license, permit, or other charge for the purpose of reclaiming, rehabilitating, revegetating, reforesting, or otherwise repairing lands eligible under section 403.

"(2) The term 'severance tax' includes any tax, fee, or levy charged for or applied to the extraction or severance of coal from the ground for purposes in section 403.

"(3) Funds credited pursuant to this section shall be considered as part of the funds to be spent in that State by the Secretary as provided in subsection 3(e).

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Chairman, the thrust of this amendment is to achieve what this bill has been billed as, and that is a "State lead bill." The legislation before this body is designed to encourage the States to develop good reclamation practices and if the States fail to do so, the Federal role in reclamation would be expanded.

My amendment proposes to give the States an incentive to accomplish reclamation of orphaned lands on their own.

The basic objective of this amendment is that if a State develops a program of reclamation for orphaned lands, the funds levied by a State in the form of a severance tax or a reclamation fee for that purpose would be deducted from any moneys owed by the mining operators to the Federal Government for the fees provided in this bill.

The objective of my amendment is to encourage the States to levy a modest fee, either by way of a severance tax and/or a reclamation fee, to be used solely for the reclaiming of orphaned lands existing in that State. To insure that the Federal fund would not be fully eroded by this provision, I limit the amount that the operator could charge off for a State tax to not more than one-half of that amount owed under the Federal fee, as provided in this bill.

This gives the State an incentive to do the job of reclamation with a State program. The States should know what would be the best way to reclaim lands within their borders. Certainly it fits in with the concept of land-use planning on the part of the States by encouraging them to develop reclamation programs that fit their particular land-use needs, both in terms of the State and/or the local community.

This amendment would provide a very strong incentive to the States to develop a program in cooperation with the local community for reclaiming orphaned lands and putting the reclaimed lands to a use for the people who live in the locality involved. Absent any program on the part of the State, there would then be a continuing reclamation program by the Federal Government.

I urge the Members to give the States an opportunity, through this amendment, to meet their own reclamation requirements for orphaned lands and to take the lead in these programs.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to ask the gentleman whether there is any guarantee in this amendment that the reclamation fee or severance tax, which would be a credit, will, in fact, be spent within the State for the purposes set forth in this bill; namely, reclamation?

Mr. REGULA. Yes. I worked out the language with the gentleman from Arizona (Mr. UDALL) to insure that any moneys levied by the State would have to be used for reclamation, by putting limiting language, in the amendment. The amendent language says "For purposes in section 403," in essence. If the gentleman will look at section 403 in the bill you will find that this section relates to reclaiming of lands only.

Mr. SEIBERLING. If I understand it, the gentleman's amendment says that it will be credited against the amount of any reclamation fee or severance tax for abandoned mine lands paid to the State during the year.

I would think it ought to say, at least for reclamation of abandoned mine lands "In accordance with the purposes set forth in this title."

Mr. REGULA. In my judgment, the language is limiting enough to assure that any funds that are acquired by a State will be used for the reclamation of orphaned lands. The goal of this amendment is to give them an incentive to take the lead in reclamation of orphaned lands.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Chairman, is it the gentleman's intent that since half of the fund collected would remain in the State or Indian reservation to meet social impacts, if a State such as Montana enacts a law on its own to help meet those social impacts, that additional State tax would be used as a credit against the fund?

Mr. REGULA. No. My understanding is that if the State levies a tax for the reclamation of orphaned land, that only would be a credit against the Federal fees provided in the bill.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

I just wanted to conclude my thoughts that in reading the language and noting the intent of the gentleman from Ohio, I have no problem in particular with the amendment. However, I would want to state very clearly that if it in any way diluted the amount of the fund that would be available for social impact in areas that are undergoing strip mining or energy development, I would want to have the conference committee address that problem and correct it in conference.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I would be delighted to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have spoken to the gentleman from Ohio, and I am inclined to accept his amendment with the understanding that it do exactly what it is intended to do, to bring the States into a larger role, and permitting them to do the reclamation. However, if this amendment has a detrimental impact on the gentleman's State for the purposes provided in title IV, then I would want to correct that in the conference, and I can assure the gentleman from Montana on that.

Mr. MELCHER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. VIGORITO

Mr. VIGORITO. Mr. Chairman, I offer two amendments, and ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. VIGORITO: Title IV, section 401(e) page 195, line 9, after the word "titles:" insert: "after receiving and considering the recommendation of the Governor of that State or head of the governing body of that tribe having jurisdiction over that reservation, as the case may be:".

Title IV, section 405(a)(6), page 204, line 1, insert after the word "Federal," the words, "or State".

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

(Mr. VIGORITO asked and was given permission to revise and etxend his remarks.)

Mr. VIGORITO. Mr. Chairman, the amendments I am offering merely give the Governors of the various States some input into the program of expenditures of the reclamation fund. In the legislation now before us the Secretary of the Interior has authority to spend these funds with 50 percent being spent in the State of origin.

The critical words in this amendment are "receiving" and "considering", which simply insures that the Governors shall submit recommendations and the Secretary will receive and consider these recommendations prior to determining in what manner the funds are to be spent.

Surely reclamation funds must be spent within the guidelines that are already established within the act. Under the amendment, presently under discussion, it will simply give the Governors additional input. The Secretary will retain the final authority as to which project shall be approved.

It is my belief that this amendment is acceptable to the managers of the bill on both sides of the asile. As a result, I think that this section will contribute to the beneficial and effective use of the reclamation fund.

I have a letter here which I wish to include, from the National Governors' Conference:

DEAR REPRESENTATIVE VIGORITO: The National Governors' Conference supports your amendment to the Surface Mining Control

and Reclamation Act of 1975 which would require the Secretary of Interior to consider the recommendations of Governors in the expenditure of revenues in their States from the proposed abandoned coal mine reclamation fund.

It is extremely important that the views of affected Governors be considered to promote the most efficient and effective use of these funds to implement the policies of Congress.

Sincerely,

JAMES L. MARTIN,
Director, State-Federal Affairs.

Further on the first amendment, as read by the Clerk, the amendment that I am offering would broaden the scope of expertise the Secretary can utilize in preparing specifications for the reclamation of lands. In the legislation under consideration the Secretary is authorized to use the specialized knowledge or expertise of any Federal department or agency, and I think this is fine. It would simply expand the Secretary's sources of information to be utilized when he is preparing specifications for the reclamation of lands. I should emphasize that it is still the Secretary's choice to seek the expertise from whom he wishes.

I should emphasize that it is still the Secretary's choice to seek the expertise from whom he wishes. I believe that the amendment is acceptable to the managers of the bill. The additional source of information about abandoned mine reclamation will be extremely beneficial to a successful reclamation program.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Chairman, we have examined these amendments, and they strengthen the role of the States in the land reclamation process and utilize the input from the Governor and State officials. I think they are good amendments, and I am prepared to support them.

Mr. VIGORITO. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. VIGORITO).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

ENVIRONMENTAL PROTECTION STANDARDS

SEC. 501. Not later than the end of the one-hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions of title V and establishing procedures and requirements for preparation, submission, and approval of State programs and development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857); and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Chairman, I object.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that section 501 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there amendments to section 501? If not, the Clerk will read.

The Clerk read as follows:

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 regulatory authority.

(b) All surface coal mining operations on lands on which such operations are regulated by the State which commence operations pursuant to a permit issued on or after 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 hundred and thirty-five days 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.

(d) Upon the request of the permit applicant or permittee subsequent to a written finding by the regulatory authority and under the conditions and procedures set forth in subsection 515(c), the regulatory authority may grant variances from the requirement to restore to approximate original contour set forth in subsection 515(b)(3) and 515(d).

(e) Not later than twenty months from the date of enactment of this Act, all operators of surface coal mines in expectation of operating such mines after the date of approval of a State program, or the implementation of a Federal program, shall file an application for a permit with the regulatory authority, such application to cover those lands to be mined after the date of approval of the State program. The regulatory authority shall process such applications and grant or deny a permit within six months after the date of approval of the State program, but in no case later than thirty months from the date of enactment of this Act.

(f) No later than one hundred and thirty-five days from the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State in which there is surface coal mining until the State program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall—

(1) include inspections of surface coal mine sites which shall be made on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsection (b) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provision of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of section (b) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface ocal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such persons when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the country or area in which the inspected surface coal mine is located copies of inspection reports made;

(5) provide that moneys authorized by section 714 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the States for conducting those inspections in which the standards of this Act are enforced and for the administration of this section.

(g) Following the final disapproval of a State program, and prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act.

Mr. UDALL (during the reading). Mr Chairman, I ask unanimous consent that section 502 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there amendments to section 502?

AMENDMENT OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SPELLMAN: Page 210, line 6, strike out "515(b)(19) and 515(d) of this Act." and insert in lieu thereof "and 515(b)(19) of this Act. No such permit shall be issued on or after such date of enactment for surface coal mining operations on a steep slope (as defined in section 515(d)(4)) or on and mountain, ridge, hill or other geographical configuration which contains such a steep slope."

Mr. HECHLER of West Virginia. Mr. Chairman, in view of the importance of this amendment, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred twenty-one Members are present, a quorum.

The gentlewoman from Maryland is recognized.

(Mrs. SPELLMAN asked and was given permission to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Chairman, I have an amendment to section 502 at the table which would prevent the granting of any new permits for steep slope operations.

I am offering this amendment on behalf of the people in the State of Maryland and in other mining areas which suffer the disruption caused by surface mining on slopes of 20 degrees or more. My amendment would provide for a 30-month phaseout of surface mining on such steep slopes.

If all the social and environmental costs of steep slope mining were expressed in terms of dollars, the costs would be prohibitive. Successful reclamation of mined land is expensive, if not impossible, far more so than the present bill recognizes. It is no wonder that past reclamation efforts in the United States have been unsuccessful. And being unsuccessful, they leave the open and ugly scars we have come to recognize and associate with strip mining. They tear down the trees, destroy the vegetation and eat up the land. Then they reclaim it by loosely packing back the earth and hoping that something will grow on it. However, where the most strip mining now occurs, in Appalachia, the average annual rainfall is excessive. There is nothing on the reclaimed land to hold the water long enough for it to soak in. The result? Flooding, mud slides, landslides, water pollution, sedimentation, acid drainage. Environmentally, its a disaster.

Strip mining on slopes over 20 degrees is considered the most damaging of all. The Stanford Research Institute, in a study done for the West Virginia Legislature, emphasized that when the slope is 20 degrees and over, 3 to 5 acres are severely disturbed for every acre mined. When it rains on the steep slopes, the environmental disaster is multiplied. Experience throughout Appalachia has certified that the steep slopes, when disturbed by strip mine activities, are for years subject to sheet erosion, slope failure, and acid drainage from the ground water system.

What many of us tend to forget is that this environmental disaster means human suffering, too. What is it like to live in an area subject to such landslides and water pollution? What is it like to wake up one morning to find that a strip mine has been set up on the hill above your house with no warning? What is it like to find your windows broken, your house shaking and your doors flying open from the shock waves of the blasting that goes on overhead without warning? What is it like to see the vegetation destroyed? What is it like to find your once-clear stream muddied and polluted; unfit to drink? What is it like to invest good money in a water system only to have it sunk by the blasting of the strip mines? People from West Virginia, Virginia, and from my own State of Maryland have told me what it is like. They have described nights of terror when they did not dare sleep during rainstorms because "you never knew when the mud would slide down the mountain at you." They have described their frustration when they tried, with no avail, to get the West Virginia Department of Natural Resources to enforce the reclamation laws already on the books. They have described the anger they feel when they see what strip mining has done to their once-beautiful land.

These lands were once the world's finest hardwood timber producers. Strip mining, even after reclamation, leaves the land in a state unsuitable for timber ground.

In the State of Maryland, the best use of western Maryland land is to support tourism and light industry. Coal mining, per se, does not necessarily threaten those two industries, but coal mining on steep slopes does. Firms are reluctant to locate new plants in steep slope surface-mined areas because of the serious dangers of flooding, the high level of outmigration and the devastated landscape which offers few appealing homesites to workers. Estimates are that the tourist industry is 4 times as large an employer as the strip mine industry, and that recreation value of lands is three times as great as that of the coal that would be stripped.

It is time we stopped this environmental and economic devastation. Since the most damage comes from steep slope mining, let us start there. I am not asking that steep slope mining be stopped overnight. My amendment provides a 30 month phaseout period, time for deep mines to start to take up the slack.

My State of Maryland is now in the process of responding to this economic and environmental devastation. This year there are bills in both the Maryland Senate and House to phase out strip mining of slopes over 20 degrees. These bills have the support of the Governor and the Maryland Department of Natural Resources. Let me read you part of the recommendations of the Department of Natural Resources as they testified on Maryland House bill 452:

As of 1973, there were approximately 27 million tons of strippable coal in Maryland; an amount equivalent to one-tenth of the annual national strip mining total . . . . At the present time, the greatest preponderance of strip mining in Maryland is accomplished on slopes having a slope more gentle than 20 degrees. Mining has been permitted in areas where slopes are greater than 20 degrees and have been subject to regulation under Department regulation 8.06.01.11. This regulation requires utilization of the modified block cut method with respect to strip mining on slopes greater than 20 degrees, and only when it has been approved by the Land Reclamation Committee . . . .

The Department has adopted these very strenuous precautions in order to ensure that during the strip mining operations, disturbed areas would be restricted to an absolute minimum. These measures are non-foolproof, and during any storm and various other episodes, both sediment and mining drainage can reach and damage an area of state interest. In weighing the benefits to be gained against the loss of restricting strip mining to a very limited area, we believe the preservation of our limited natural and scenic resources far outweigh our economic losses . . .

What would happen without the steep slope ban? Strip mining on those slopes would continue, and within 15 years all Appalachian Mountain strippable reserves would be exhausted. At that time, a shift to deep mining would be necessary—when the deep mining industry would be very near to the end of its rope. In the past 5 years, over 50 percent of the deep mining operations in existence have closed down; put out of business by the more profitable stripping. If we do not start encouraging deep mines now, will there be enough when we really need them to fill our energy needs 15 years from now? Even the Department of the Interior concluded that an overdependence on strip mining could cause irreparable damages to the underground mining industry.

Massive strip mining is a short term operation, and steep slope stripping is even more so. Eventually the deep mines must be opened and expanded and the deep mine labor force rebuilt and extended. In the final analysis, when one looks at all the figures, one has to recognize the need to guarantee the continued existence of deep mining. The eastern part of the Nation desperately needs the 67.6-billion-ton reserve of deep minable coal in Appalachia, but the recovery of those vast reserves is seriously jeopardized by a rush to strip mining in that region of the country. Not only is it going to spell the economic death of the deep mine industry, but the blasting and other activity on the surface will make deep coal seams technically impossible to mine.

I think it is important to note that the Committee itself quoted the 1973 Senate study entitled "Factors Affecting the Use of Coal in Present and Future Energy Markets," as follows:

Bench width limits are largely disregarded if the operator finds that the economic limit of mining permits additional cuts. These

practices have resulted in continued landslides which occur during mining as well as many years after. A sample study of 190 landslides resulting from strip mines in eastern Kentucky revealed that 86% of the landslides were on slopes of 20 degrees or more, with 54% of the slides being on slopes of 25 degrees or more.

The study goes on to note that Kentucky then experimented with pushing the overburden downslope to prevent landslides.

Such methods, however, are subject to massive sheet and gully erosion and slumping, especially in the high rainfall regions such as the Appalachian region, and in effect reduce neither the amount of environmental damage nor the number of operator violations.

Even with a model State surface mining statute, Kentucky has found significant violations to State law and regulations by strip mining operators. I include in the RECORD the table printed in the Committee Report that clearly evidences the fact that over 40 percent of the inspections found violations directly affecting steep slopes. These inspections, by the way, are made on a biweekly basis, and include all strip mining operations.

The report concludes:

The significance . . . is further emphasized when it is recognized that most damages from such violations cannot be remedied . . . This evidence reinforces the concept that certain surface mining practices cannot be regulated satisfactorily, and in these instances the best answer is to prohibit those specific practices.

Mr. Speaker, I believe that the environmental damage and the human suffering caused by steep slope mining mandates a prohibition of such mining. I am proud that Maryland has taken a step in this direction by considering Maryland House bill 452. Since reclamation is such a failure, since we cannot repair the damages done by such contour mining, we must ban it. Again, I point out that any ban should be phased, as my amendment provides, in order to continue some short-term production of coal to meet our energy needs. There is ample deep minable coal and there are sufficient numbers of miners to gradually phase in deep mining as the contour mining is phased out. In the huge western coal fields and the Appalachian area, the amount of low-sulfur coal which is deep minable exceeds surface minable coal by over 7 to 1. Encouraging deep mining now, before it has become economically strangled by strip mining, would insure more adequate supplies of this vital coal resource in the future. Since deep mining requires three times as many miners, we would be spurring employment at a time when so many Americans are unemployed. And, last, such a ban would mean less inspection is required at sites of the mines.

Mr. Speaker, the evidence strongly favors a phase out of strip mining on 20° slopes. I strongly urge the adoption of my amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Maryland.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to this amendment. I believe the bill includes a regulatory procedure and sufficiently stringent environmental protection standards so that the problems which past and present strip mining have caused in the Appalachian Mountains will be precluded from occurring in the future.

Specifically this bill:

First. Prohibits the dumping of spoil on the downslope. This provision would eliminate landslide problems occurring in the past;

Second. Prohibits leaving high walls; requires complete backfilling from the outside edge of the bench to the top of the high wall. This will eliminate the scars which have resulted from much of the past contour mining;

Third. Imposes strict water and filtration control requirements, thus virtually eliminating the erosion and sedimentation problems; and

Fourth. Provides a procedure to designate areas unsuitable for all or certain types of mining.

In early 1973 the President's Council on Environmental Quality prepared a report which concluded that a ban on steep slope surface mining would result in a reduction in total U.S. coal production by as much as 80 million tons per year, all in the Appalachian area. This 80 million tons is approximately 40 percent of the total production in district 7 and 8, which is the Appalachian area, and is about 13.5 percent of the total 600 million tons produced in the United States during 1974.

This is desirable coal, because most of it is low-sulfur coal. Passage of this amendment will greatly reduce the Nation's supply of low-sulfur coal and will require the substitution of coal of high-sulfur content which will severely increase air pollution problems. I am sure that this is not what the gentlelady from Maryland wants.

In the fall of 1974, with the prospects of a miners' strike and fierce competition among coal buyers, we saw the price of coal soar to $46 a ton. Today prices have eased back to about $19.50 per ton.

The above drastic price fluctuations demonstrate coal's extreme sensitivity to supply reductions in the face of constant demand.

It is quite apparent that a 20-degree slope prohibition would severely restrict the production of coal, especially in Eastern America, and would bring about another round of inflation in coal prices and in consumer electric bills.

Many, perhaps most of the individuals and operators in the coal mining industry are reconciled to the fact that a regulatory bill is coming—a bill which provides meaningful standards. They are anxious to have this issue resolved. If you adopt this amendment to ban mountain mining, it will stir up another wave of opposition against the bill. It will make the bill more objectionable to businesses, industry, and people in need of coal. It could mean the difference in whether or not this bill becomes law this year.

It is important that this legislation be passed without delay so that the industry will know the guidelines and regulations which they will have to meet.

I urge the defeat of this amendment.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment.

(Mr. STEIGER of Arizona asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Arizona. Mr. Chairman, I think we have here an excellent example of probably why "Shoemakers, stick to your lasts" is a valid admonition. We have a very attractive and articulate young lady who comes in here, not having had the benefit of committee experience, having been romanced by the environmentalists, apparently, to an extent that the gentlewoman is not even aware of.

Now, the gentlewoman told us that this would only affect 1 percent of the coal mined in the country. Now, that is simply a total obfuscation. As a matter of fact, the gentleman from North Carolina, a member of the committee, pointed out that it is much nearer to 14 percent—and I will give the gentlewoman a chance in a moment, do not worry—what is even more important, it will affect 29 percent of the mines and an untold number of individual workers, as well as individual owner of the small mines.

The real problem is the arbitrariness of the designation. What is really quite offensive to me is that the gentlewoman honestly has no concept of what 20 degrees is, and I am going to demonstrate that to the House.

The gentlewoman is standing on a slope. Would she tell me—and I would be happy to yield to her—that slope here, and let the RECORD show that I point to the ramp leading to the well, would the gentlewoman say that slope was greater or less than 20 degrees? I will yield to the gentlewoman for purposes of answering that question.

Mrs. SPELLMAN. The gentlewoman will answer that if the gentleman——

Mr. STEIGER of Arizona. The gentlewoman has confessed that she does not know.

Mrs. SPELLMAN. The gentlewoman confesses no such thing.

Mr. STEIGER of Arizona. Mr. Chairman, I will give the gentlewoman one more opportunity. Would she advise this body whether the slope she is standing on is greater—and no fudging and no looking around—greater or less than 20 degrees?

Mrs. SPELLMAN. If the gentleman from Arizona would like to know whether or not the gentlewoman from Maryland knows what she is talking about, I refer him to one of the best laws on surface mining which exists in this country. That came about——

Mr. STEIGER of Arizona. I am going to have to interrupt the gentlewoman. It is evident she does not know whether the slope is 20 degrees or not.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. The gentleman will not.

Mr. HAYS of Ohio. I know the answer.

Mrs. SPELLMAN. I, too, know the answer. Anybody in this room knows the slope is not 20 degrees.

Mr. STEIGER of Arizona. I ask, is it greater or less?

Mrs. SPELLMAN. It is less than 20 degrees.

Mr. STEIGER of Arizona. The gentlewoman is willing to stake her reputation on that?

Mrs. SPELLMAN. My reputation is at stake, yes.

Mr. STEIGER of Arizona. The fact is, it is less than 20 degrees, and the fact is that the gentlewoman's hesitancy is exactly the point I am trying to make.

Mrs. SPELLMAN. I have no hesitation in replying to any of the gentleman's statements. The problem is the gentleman refuses to hear the facts.

Mr. STEIGER of Arizona. I am not going to yield any further at this point.

The fact is, as a matter of fact, I think it is 21 degrees, but the fact is a decrease, an arbitrary decrease by legislation is offensive enough, but when it has been discussed and evaluated in committee and rejected, and then brought forth to the floor by someone whose experience really does not justify that bringing forth, that annuls the entire legislative process.

That is exactly my complaint about, not only this amendment, but this bill. The fact is that what the Members should remember, aside from the colloquy we just had—and I hope they will remember it—is that this amendment would wipe out 29 percent of the existing mines, most of them in Appalachia; 51 percent of the Appalachian surface production and 14 percent of the surface mining in this country. It is not the 1 percent the gentlewoman mentioned.

Now, again she is not at fault in that. She accepted somebody else's figures for that. The fact is that surface mined coal accounts for 44 percent of all of the coal that is burned by electric utilities. Sixty-seven percent of the surface-mined coal in this country is used by electric utilities. This arbitrary and unknowing amendment threatens again the consumers' utility bill. Regardless of the fate of it—and frankly, if this amendment were to pass, it would kill the bill, as the gentleman from North Carolina pointed out, because of a veto ——

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. STEIGER of Arizona. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mrs. HOLTZMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding to me. I will not take all of his time.

I would advise that this indeed—in spite of my apparent facade of cheerfulness—this is a very serious amendment and would have the opposite results to what the gentlewoman has no intention of doing, to decrease the availability of low sulfur coal, absolutely; and add a tremendous burden on the consumer, absolutely. It would absolutely require a veto. All of these things, I am sure, she is not aware of. They ought to be taken into account.

As a matter of fact, as some Members may have suspected, I am opposed to this bill. I would do virtually anything to see that this bill is not passed, but not this, because this is so destructive of logic and reason and so destructive of what the committee did and what the committee endured, that I would hope without any further ado the committee would reject this amendment, since this is now the multiple eighth time it has been before us; either the subcommittee, the full committee, on the floor or in conference.

So, again the House should understand that the gentlewoman's information is incorrect.

Her basis for her assumption has been given to her by somebody else, and the net result of her amendment would be very different from that than she believes.

I thank the gentleman from Idaho for yielding.

Mr. SYMMS. Mr. Chairman, I would like to say that I associate myself with the remarks of the gentleman from Arizona. After having endured many, many hours of debate by previous speakers, I heard all the way from 26 percent, 33 percent, up to 49 percent of the slopes that it would take to only stop stripping of 1 percent of the Nation's coal.

I do believe the gentlewoman is just in error. I do not impugn her motives by offering the amendment. I think it is a very serious error, and I think the amendment should be voted down.

Mr. WIRTH. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentlewoman from Maryland.

Mr. Chairman, I yield to the gentlewoman.

Mrs. SPELLMAN. Mr. Chairman, I find it interesting that the gentleman from Arizona misunderstood what I was saying. I am speaking of 1 percent of the coal reserves—note the word "reserves"—are in those slopes 20 degrees or more. That is a fact, and I can present the facts for the record.

I might also point out that the 20-degree figure was not dreamed up by me. Note page 264 of the bill, section (4), which reads: "For the purposes of this section, the term 'step slope' is any slope above 20 degrees."

So the committee itself recognized that 20 degrees was the important figure.

I might also point out—and again I need to call attention to the fact—that, for this 1 percent of the reserves, we are disturbing and making it impossible in many cases to mine the deep coal. Rich deposits of coal may never be mined because of the damage that is being caused by blasting.

In my own county, where a great deal of surface mining took place, we spent 3 years bringing about a proper grading ordinance, and so this is one of the areas that I do know something about.

What many of us tend to overlook is the damage that is being caused to people. People suffer. What is it like to live in an area that is subject to those landslides and water pollution? What is it like to wake up in the morning and find a strip mine has been set up on the hill above you with no warning? What is it like to have your windows broken? What is it like to have your house shaking and the doors flying open from the shock waves from the blasting that goes on without warning? What is it like to see the vegetation destroyed? What is it like to find once clear streams now muddy and polluted and unfit to drink? What is it like to invest good money in a water supply, only to have it sunk by the blasting of the strip mines?

People from West Virginia and from Virginia, and some in my own State of Maryland, have told me what it is like. They do not dare sleep during rainstorms because, they said, "You never know when the mud will slide down the mountain at you." They described their frustrations when they tried, with no avail, to get enforcement of reclamation laws that were on the State books. They described the anger they feel when they see what strip mining has done to their once beautiful land.

There is one woman, Alice Fugate, of Virginia, who did not come to talk to me about this. She did not come to talk to me about this because she was killed in one of these landslides. And so we are talking about human misery.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I think the gentlewoman has made a distinct contribution to the discussion here today, and she is absolutely right about the terrible damage done by mining on steep slopes. I personally think that the committee bill, if it is enforced, takes care of most of the problems.

But there is one problem it does not take care of, and I intend to offer an appropriate amendment at the right time. It does not prevent the mining of coal seams which can only be worked by deep mining methods. It does not prevent strip mining in such a way as to crack or fracture the rock and thereby make it impossible to get out the deep lying coal.

If we do not do something about that, in the matter of steep slopes and deep mining, we are mortgaging our ability to get out the deep lying coal in the future. That is where most of our coal is.

Mr. Chairman, I commend the gentlewoman for bringing that fact out. If her amendment succeeds, she has made a valuable contribution in pointing out a serious defect in the bill.

Mrs. SPELLMAN. Mr. Chairman, I am grateful to the gentleman for his comments.

May I point out one other thing about these slopes which I think is enormously important? I heard the gentleman say

earlier that these areas can be worked properly and that we can control erosion.

Let me tell the Members what the Department of Natural Resources in the State of Maryland has to say about that. They point out that they are using a block cut method with respect to strip mining on slopes which are greater than 20 degrees and this is allowed only when it has been approved by the Land Reclamation Committee. The department has adopted these very strenuous precautions in order to insure that during strip mining operations disrupted areas should be restricted to an area or a slope of less than 20 degrees. But even with such controls, they experience failures.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. SPELLMAN) has expired.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I move that all debate on the pending amendment and all amendments thereto close at 4 o'clock.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for approximately 50 seconds each.

(By unanimous consent, Messrs. RONCALIO and MIKVA yielded their time to Mrs. SPELLMAN.)

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I was pointing out that the State of Maryland uses every possible precaution, and yet they say this, and I quote:

> These measures are nonfoolproof, and during any storm and various other episodes, both sediment and mining drainage can reach and damage an area of State interest. In weighing the benefits to be gained against the loss of restricting strip mining to a very limited area, we believe the preservation of our limited natural and scenic resources far outweigh our economic losses.

Mr. Chairman, I wish again at this time to call attention to the fact that there is no relationship between the cost of coal and the charges. Profits go up to and have increased over 800 percent for some of these companies in a 1-year period of time.

(By unanimous consent, Mrs. SPELLMAN yielded her time to Mr. SCHEUER.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

(By unanimous consent, Mr. MCKAY yielded his time to Mr. UDALL.)

Mr. SCHEUER. Mr. Chairman, the evidence is perfectly clear that strip mining does add to the hazard of floods, the seriousness of floods and the danger of loss of lives.

A survey done by the U.S. Geological Survey indicated 30,000 tons of silt per square mile discharged from an area that had been strip mined, as against less than 30 tons, one-thousandth as much, per square mile, where no strip mining had taken place.

A University of Tennessee study indicated that we can expect double the flooding in strip mined areas as in nonstrip mined areas, and the Geological Service has a third study indicating a factor of three to five as the increase in flooding after strip mining.

It is perfectly clear, Mr. Chairman, that people living in strip mined areas can expect more floods, greater damage, and less time to escape and save their lives.

Mr. Chairman, I note that this amendment is opposed by the National Coal Association. They tell us the defeat of this amendment is essential for the prosperity and well-being of this Nation. To my mind, that is proof positive that this amendment is probably the best thing that could happen, not only to our country, but also to the coal industry itself. We have example after example of industries that not only do not know what is good for the country, but do not know what is good for them.

I remember, Mr. Chairman, when the securities industry in the 1930's fought the Securities Exchange Act and the concept of full disclosure which today provides the very public credibility and acceptance upon which the securities industry relies. I remember when the banking industry opposed the Federal deposit insurance program which they now advertise on the radio daily as a highly desirable consumer protection, which it now, and was then—when they fought it. Remember when the manufacturing industries bitterly fought the very minimum wage standards nationally that produced a market of workers across the country able to buy the product of our mass production-versus-consumption economy. The examples of industry myopia go on and on.

So let it not concern any of us that this amendment is opposed by industry representatives. If history is any judge—that may be the best augery that this legislation is not only in the Nation's best interests, but also is in the best long-term interests of the coal industry itself.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. WAMPLER).

(Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

(By unanimous consent, Mr. QUILLEN and Mr. YOUNG of Alaska yielded their time to Mr. WAMPLER.)

Mr. WAMPLER. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Maryland.

Mr. Chairman, I am certain that the gentlewoman's amendment is designed to improve the environment by removing the so-called ugly scars to our landscape which have been associated with surface mining by the news media and well-meaning environmentalist groups.

Unfortunately, Mr. Chairman, the gentlewoman's amendment would cause more devastating scars on our people than she would cure.

For example, in Virginia alone, her amendment would knock out in one fell swoop more than 100 coal surface mining companies and suppliers, most of them small business operations. The gentlewoman's amendment would also put 2,000 surface miners on the unemployed rolls. Additionally, her amendment would also put 5,000 to 7,500 job-related workers on the public dole. Moreover, and ironically, the gentlewoman's antisurface mining amendment would strip $125 million from Virginia's economy, which feeds directly from the coal surface mining industry.

Mr. Chairman, what the gentlewoman apparently has not taken into consideration is the fact that her amendment knocks Virginia and my congressional district out of the coal surface mining business and also a significant amount of the deep mining. As I explained to the committee on last Friday, of the six counties which produce commercial quantities of surface mined coal in Virginia, all of these counties have average surface mined slopes of 20 degrees or more. Coal surface mining operations range from approximately 20 degrees in Wise County to slightly over 29 degrees in Buchanan County. So in effect, Mr. Chairman, the Spellman amendment's restriction to ban coal surface mining on slopes greater than 20 degrees abolishes the coal surface mining industry in Virginia. The effect would be to bring economic chaos to southwestern Virginia.

I would also like to inform the committee that not only would this amendment abolish coal surface mining in Virginia, but also much of its underground mining would be seriously affected. Much of the underground coal mine industry in Virginia exists only because its high sulfur underground coal can be blended with Virginia's low sulfur, surface-mined coal to meet the stringent sulfur emission standards in our environmental laws. Thus, not only would her amendment create chaotic unemployment problems in Virginia's surface mining industry, but, it would also create a serious unemployment problem in the underground mining industry of Virginia.

Mr. Chairman, this amendment is wrong economically and it is also wrong environmentally.

Surface mining of coal is environmentally feasible at slopes above 20° as the committee bill indicates, with certain environmental restrictions, as long as these standards are met. Moreover, surface mining in Virginia is under strict State legal environmental standards, as it is in many other States.

Mr. Chairman, the Public Works Committee and this Congress have approved legislation for years to build interstate

highways all across our Nation. Construction has occurred on cuts and fills way above slopes of 45° and these slopes are commonly seeded and reforested with little or no effect on our environment.

Mr. Chairman, this amendment is another case of environmental overkill—not too much different from the years of delay these same groups caused our country during the Alaskan pipeline debates.

Mr. Chairman, I urge an overwhelming defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Chairman, first of all I would like to point out that the remarks of the gentleman from Virginia (Mr. WAMPLER) were completely meaningless because the Spellman amendment does not knock out any production in the State of Virginia, or anywhere; it only applies to new permits from now on. It has absolutely nothing to do with the tonnage of present production that the gentleman is talking about.

There are two very clear points on which I am sure everyone would unanimously agree. No. 1: There is more damage on steep slopes from erosion, landslides, instability of the soil, and damage to the people and their property; and, No. 2, the steeper the slope the more expensive it is to patch it up once you strip mine a steep slope.

The whole issue is whether we can take the risk in damage.

Prof. William H. Miernyk, director of the Regional Research Institute at West Virginia University, stated:

> In practice, the law of gravity takes over, and when initial cuts are made on the sides of steeply sloped mountains, the overburden inevitably goes crashing down slope . . . Damage in Appalachia as a result of prior steep-slope surface mining is already expensive. If further stripping on these steep slopes is not banned in a very short time much of central Appalachia will become virtually uninhabitable, and this region will not be able to support other kinds of energy activity.

It is for this reason, Mr. Chairman, that I think the amendment of the gentlewoman from Maryland is reasonable, it is sound, and deserves the support of both sides of the aisle.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

(By unanimous consent, Messrs. SYMMS and ROUSSELOT yielded their time to Mr. BAUMAN.)

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Chairman, I fully understand the concerns which prompt the introduction of this amendment by my colleague, the gentlelady from Maryland. I also know that she feels she has some very impressive backing for this stand as evidenced by the various groups who have endorsed her position. But some of these same people have taken some extreme stands on environmental issues, positions which would seriously harm the consumers of America. This amendment must fall squarely into the category of such extremism.

The concept embodied in this amendment was carefully considered in the committee, of which I am a member, and it was rejected as unrealistic and impractical, as I am sure even the gentleman from Arizona (Mr. UDALL) will agree.

But there is an even more serious problem presented here. If this amendment were accepted by the House, it would affect 19 percent of all the coal produced in this Nation. The resulting decrease in production would lead directly to higher coal prices and a consequent increase in the cost of electricity for every household in America, including those in Maryland. How anyone can support such a boost in electric costs at a time of such high inflation is beyond this Member.

The sponsor of this amendment in the other body was the senior Senator from my State, who also shares a great many views espoused by the gentlewoman from Maryland. The other body rejected this same amendment overwhelmingly by a vote of 28 to 64. This cause has already been lost in the other body. There is no reason why we should add this burden to this legislation today.

The other day when the gentlelady said that she was not a fallen woman in response to the gentleman from Arizona (Mr. STEIGER) who suggested that she would not know a 20-degree slope if she fell down one. That may be so but she has fallen for this amendment, and the rest of us should avoid the same trap.

I hope that the Members will reject the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I would just like the RECORD to reflect, unfortunately an inaccuracy in the statement of fact of the gentleman from West Virginia in which he says existing mines would not be affected. As the gentleman knows, as the House knows, existing mines will have to come into uniformity and, therefore, they will not be exempt. The gentleman from Virginia who indicated that there would be lost production was correct.

I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan (Mr. RUPPE).

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, it seems to me that we are caught up on the question of degrees. I do not think personally it is important whether the slope would be 25 degrees or 15 degrees, or 5 degrees. If we can mine the area and restore the land to its original contour, if we can remove any of the environmental damages that have been associated with strip mining in the past, then it seems to me we should permit mining. If the land cannot be restored, we should preclude the mining of that land, regardless of whether the degrees are 20 or 5.

Many of us think in terms of slides, erosion, and flooding without realizing that in this legislation we have a very definite prohibition against spoil on the downslope, against the placing of any overburden on the downslope side after mining.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, I find myself a little uncomfortable in the company of my friends over here, but I really have to oppose this amendment. I oppose it because it violates the central compromise in this bill. The compromise has two sides. One side says, "We are not going to do it the way we used to do it." We are not going to mine coal unless we can reclaim the land and put it back. The other side says, "If we can put the land back, we are going to surface-mine coal."

The bill is tough, but it is tough wherever it is applied. We say on a slope of 20 degrees in addition to all of these tough standards, we have got to meet four more tougher standards relating to spoil on the downslope, to siltation of streams, to high walls, and we can also go in, too, and have a designation made that this area is unsuitable for surface mining.

What we have tried to do in this bill is avoid arbitrary standards. I have seen slopes in Pennsylvania of 30 degrees where they have mined and put the land back, and where trees and shrubbery are growing now. So why have an arbitrary standard, pick 20 degrees and say, "Under no conditions in no part of this country can we mine where we fix this arbitrary standards?"

The final reason I oppose this amendment is I want a bill. The key vote is going to come about a month from now when we try to override a veto. If we add this kind of arbitrary standard here where we say no one can mine above 20 degrees, we are going to have a problem getting a bill.

While I greatly respect this fine legislator who has offered this amendment, I must oppose it.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentlewoman from Maryland.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SPELLMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 262, not voting 34, as follows:

[Roll No. 56]

AYES—136

Abzug	Beard, R.I.	Carr
Adams	Bedell	Chisholm
Ambro	Blanchard	Clay
Anderson, Calif.	Blouin	Cohen
	Boggs	Conte
Aspin	Brodhead	Conyers
Badillo	Brown, Calif.	Cornell
Bafalis	Burke, Calif.	D'Amours
Baldus	Burton, John	Dellums
Baucus	Burton, Phillip	Derrick

Diggs	Kasten	Rees
Dingell	Kastenmeier	Reuss
Downey	Keys	Richmond
Drinan	Koch	Riegle
Early	Krebs	Rinaldo
Eckhardt	Lehman	Roe
Edgar	Levitas	Rogers
Edwards, Calif.	McCloskey	Rosenthal
Emery	McHugh	Roush
Evans, Ind.	Macdonald	Roybal
Fish	Madden	Ryan
Fisher	Maguire	St Germain
Fithian	Metcalfe	Sarbanes
Florio	Meyner	Scheuer
Flynt	Mezvinsky	Schroeder
Ford, Mich.	Mikva	Seiberling
Ford, Tenn.	Miller, Calif.	Sharp
Fraser	Mineta	Simon
Green	Mitchell, Md.	Solarz
Gude	Moakley	Spellman
Hall	Moffett	Stark
Hannaford	Mosher	Stokes
Harkin	Moss	Studds
Hawkins	Mottl	Symington
Hechler, W. Va.	Nix	Thompson
Heckler, Mass.	Nolan	Thornton
Hightower	Nowak	Tsongas
Holland	Obey	Van Deerlin
Holtzman	O'Neill	Vander Veen
Horton	Ottinger	Vanik
Howard	Patman	Vigorito
Howe	Patten	Weaver
Jacobs	Patterson, Calif.	Whalen
Jeffords	Pattison, N.Y.	Wirth
Jenrette	Peyser	Yates
Jordan	Rangel	

NOES—262

Abdnor	Erlenborn	Latta
Anderson, Ill.	Esch	Leggett
Andrews, N. Dak.	Eshleman	Lent
	Evans, Colo.	Litton
Annunzio	Fascell	Lloyd, Calif.
Archer	Fenwick	Lloyd, Tenn.
Armstrong	Findley	Long, La.
Ashbrook	Flowers	Long, Md.
Ashley	Foley	Lott
AuCoin	Forsythe	Lujan
Barrett	Fountain	McClory
Bauman	Frenzel	McCollister
Beard, Tenn.	Frey	McCormack
Bennett	Fulton	McDade
Bevill	Fuqua	McDonald
Biester	Gaydos	McEwen
Bingham	Giaimo	McFall
Boiling	Gibbons	McKay
Bonker	Gilman	McKinney
Bowen	Ginn	Mahon
Breaux	Goldwater	Mann
Breckinridge	Gonzalez	Martin
Brinkley	Goodling	Mathis
Broomfield	Gradison	Matsunaga
Brown, Mich.	Grassley	Mazzoli
Brown, Ohio	Guyer	Meeds
Broyhill	Hagedorn	Melcher
Buchanan	Haley	Michel
Burke, Mass.	Hamilton	Milford
Burleson, Tex.	Hammer-schmidt	Miller, Ohio
Burlison, Mo.		Minish
Butler	Hanley	Mink
Byron	Hansen	Mitchell, N.Y.
Carney	Harris	Mollohan
Carter	Harsha	Montgomery
Cederberg	Hastings	Moore
Chappell	Hayes, Ind.	Moorhead, Calif.
Clancy	Hays, Ohio	
Clausen, Don H.	Hefner	Moorhead, Pa.
	Heinz	Morgan
Clawson, Del	Helstoski	Murphy, Ill.
Cleveland	Henderson	Murphy, N.Y.
Cochran	Hicks	Murtha
Collins, Tex.	Hillis	Myers, Ind.
Conable	Hinshaw	Myers, Pa.
Conlan	Holt	Natcher
Corman	Hubbard	Neal
Cotter	Hughes	Nedzi
Coughlin	Hungate	Nichols
Crane	Hutchinson	Oberstar
Daniel, Dan	Hyde	O'Brien
Daniel, Robert W., Jr.	Ichord	O'Hara
	Johnson, Calif.	Passman
Daniels, Dominick V.	Johnson, Colo.	Pepper
	Johnson, Pa.	Perkins
Danielson	Jones, Ala.	Pickle
Davis	Jones, N.C.	Pike
de la Garza	Jones, Okla.	Poage
Delaney	Jones, Tenn.	Pressler
Dent	Karth	Preyer
Devine	Kazen	Price
Dickinson	Kelly	Pritchard
Downing	Kemp	Quie
Duncan, Oreg.	Ketchum	Quillen
Duncan, Tenn.	Kindness	Railsback
du Pont	Krueger	Randall
Eilberg	LaFalce	Regula
English	Lagomarsino	Rhodes
Risenhoover	Slack	Treen
Roberts	Smith, Iowa	Udall
Robinson	Smith, Nebr.	Ullman
Rodino	Snyder	Vander Jagt
Roncalio	Spence	Walsh
Rooney	Staggers	Wampler
Rostenkowski	Stanton, J. William	White
Rousselot		Whitehurst
Runnels	Steed	Whitten
Ruppe	Steelman	Wiggins
Russo	Steiger, Ariz.	Wilson, Bob
Santini	Stephens	Winn
Sarasin	Stratton	Wright
Satterfield	Stuckey	Wydler
Schneebeli	Sullivan	Wylie
Schulze	Symms	Yatron
Sebelius	Talcott	Young, Alaska
Shipley	Taylor, Mo.	Young, Fla.
Shriver	Taylor, N.C.	Young, Tex.
Shuster	Teague	Zablocki
Sikes	Thone	Zeferetti
Sisk	Traxler	

NOT VOTING—34

Addabbo	Derwinski	Stanton, James V.
Alexander	Dodd	
Andrews, N.C.	Edwards, Ala.	Steiger, Wis.
Bell	Evins, Tenn.	Waggonner
Bergland	Flood	Waxman
Blaggi	Harrington	Wilson, Charles H., Calif.
Boland	Hébert	
Brademas	Jarman	
Brooks	Landrum	Wilson, Charles, Tex.
Burgener	Madigan	Wolff
Burke, Fla.	Mills	Young, Ga.
Casey	Rose	
Collins, Ill.	Skubitz	

So the amendment was rejected.

The Clerk announced the following pairs:

Mrs. Collins of Illinois for, with Mr. Hébert against.

Mr. Harrington for, with Mr. Waggonner against.

Mr. Addabbo for, with Mr. Brademas against.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 502?

If not, the Clerk will read.

The Clerk read as follows:

STATE PROGRAMS

SEC. 503. (a) Each State in which there is or may be conducted surface coal mining operations, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in section 521 and title IV of this Act shall submit to the Secretary, by the end of the eighteen-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface coal mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 522;

(6) establishment, for the purposes of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175), and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program was submitted to him.

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof. The Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

(d) For the purposes of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit, or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of section 503 and 504 shall again be fully applicable.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that section 503 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to section 503?

If not, the Clerk will read.

The Clerk read as follows:

FEDERAL PROGRAMS

SEC. 504. (a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement a Federal program for a State if such State—

(1) fails to submit a State program covering surface coal mining and reclamation operations by the end of the eighteen-month period beginning on the date of enactment of this Act;

(2) fails to resubmit an acceptable State program within sixty days of disapproval of a proposed State program: *Provided*, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved State program as provided for in this Act.

If State compliance with clause (1) of this subsection requires an act of the State legislature the Secretary may extend the period for submission of a State program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any State not in compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. In promulgating and implementing a Federal program for a particular State the Secretary shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions.

(b) In the event that a State has a State program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 521, of that part of the State program not being enforced by such State.

(c) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing in the affected State.

(d) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines any permit to have been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform on-going surface mining and reclamation operations to the requirements of the Federal program.

(e) A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 503(b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 503(a) (1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

(f) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine that the requirements of this Act and the approved State program are not violated. If the State regulatory authority determines any permit to have been granted contrary to the requirements of this Act or the approved State program, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of this Act or approved State program.

(g) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface mining and reclamation operations subject to this Act shall, insofar as they interfere with the achievement of the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program.

(h) Any Federal program shall include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation.

STATE LAWS

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 504 be disposed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to section 504?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 505. (a) No State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this Act.

(b) Any provision of any State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operations than do the provisions of this Act or any regulation issued pursuant thereto shall not be construed to be inconsistent with this Act. Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act.

(c) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 505 be dispensed with, that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to Section 505?

AMENDMENT OFFERED BY MR. RISENHOOVER

Mr. RISENHOOVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RISENHOOVER: Page 221, Line 11, after "Act." insert "Nothing in this Act shall be applicable to the States of Kentucky, Indiana, Maryland, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, and West Virginia, which have heretofore joined together in the Interstate Mining Compact or any other state who joint the Interstate Mining Compact as long as such States have in force and effect a "Mining Lands Reclamation Act."

(Mr. RISENHOOVER asked and was given permission to revise and extend his remarks.)

Mr. RISENHOOVER. Mr. Chairman, when this Nation was pondering the nature and content of its Constitution, James Madison asked a question which remains timely today: "Is the aggregate power of the general government greater than ought to have been vested in it?"

I hope my amendment before this House will be considered in that context.

Most simply, I propose that States—which are meeting the challenges of reclamation—be allowed a choice in whether to be governed by the provisions of this act or by State laws.

The Oklahoma Legislature passed a concurrent resolution seeking exemption from Federal mining and reclamation laws for Oklahoma and other members of the Interstate Mining Compact who have their own reclamation acts.

Many of these States are far ahead of the Federal Government in effecting sound reclamation. Oklahoma has its own, good working reclamation and mining laws.

Therefore, I say to this House, that in considering H.R. 25—the Surface Mining Control and Reclamation Act—you must answer the Madison line of question: We must admit that we are increasing the aggregate power of the general government greater than ought to be vested in it.

In presenting this amendment both during markup in the committee and again on this floor today, I am attempting to keep important public decisions close to the people. I am committed to government nearest the people.

The various legislatures need to come to grips with their own State's environments, their local ecology, and make allowances for local problems. When there is a local failure, then higher levels of government should become concerned.

I admit that the history of strip mining is not pretty. In my own district, there are ugly reminders of irresponsible mining.

But, that was a long time ago. The Oklahoma Legislature, for many years, has been tightening the laws of mining and reclamation. I would believe that the people of the various States now should have the choice of living with State laws—or with Federal laws. After all, it is their landscape or eyesore—and the choice should also be theirs.

H.R. 25 seems to me to be very simply a matter of "who gets the mine—and who gets the shaft."

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would essentially gut the entire bill. It provides that the member States of the interstate mining compact, which is an obscure group, would be exempted from the provisions of this bill. We would turn over, in other words, to a small organization,

with almost no staff, the whole national question of whether we are going to have tough, enforceable strip mining regulations.

The interstate mining compact has no authority whatever to implement or enforce any of the provisions of the programe or of the law for its members.

It is interesting to note that two States in the compact, Pennsylvania and Maryland, are opposed to this amendment.

Mr. Chairman, I think it is an unwise amendment.

Mr. STEIGER of Arizona. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

I will not use 5 minutes. I would just like to make one point clear for the record.

What the gentleman from Oklahoma has done is to actually synthesize into one amendment what we have heard for 4 years concerning what this bill is. This bill was alleged to be a State-led bill, a bill in which the States could determine their own fate within guidelines approved by the Federal Government.

The interstate mining compact does that without the frills and the "goodies" and the expense. If we really are interested only in seeing to it that nobody can mine coal by a surface method unless they reclaim the land, we should accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. RISENHOOVER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. RISENHOOVER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 505?

If not, the Clerk will read.

The Clerk read as follows:

PERMITS

SEC. 506. (a) On and after six months from the date on which a State program is approved by the Secretary, pursuant to section 503 of this Act, or on and after six months from the date on which the Secretary has promulgated a Federal program for a State not having a State program pursuant to section 504 of this Act, no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 502 of this Act, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this Act, but the initial administrative decision has not been rendered.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided*, That a successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

(c) A permit shall terminate if the permittee has not commenced the surface coal mining and reclamation operations covered by such permit within three years of the issuance of the permit.

(d) (1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written finding by the regulatory authority that—

(A) the terms and conditions of the existing permit are being satisfactorily met;

(B) the present surface coal mining and reclamation operation is in full compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

(C) the renewal requested does not jeopardize the operator's continuing responsibility on existing permit areas;

(D) the operator has provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 509; and

(E) any additional revised or updated information required by the regulatory authority has been provided. Prior to the approval of any extension of permit the regulatory authority shall provide notice to the appropriate public authorities.

(2) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for revision of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this Act.

(3) Any permit renewal shall be for a term not to exceed the period of the original permit established by this Act. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that section 506 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, section 1114, title 18, United States Code now provides for protection of officers and employees of the United States and provides that any person who kills any of the identified officers or employees of the United States while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished by death or life imprisonment in the case of first degree murder, and for any term of years or for life in the case of second degree murder, or shall be fined not more than $1,000 or imprisonment for not more than 3 years or both in the case of involuntary manslaughter or imprisonment for not more than 10 years in the case of voluntary manslaughter.

Section 704 adds officers or employees of the Department of the Interior assigned to perform investigative, inspection, or law enforcement functions to the present list of officers and employees in the Department of Health, Education, and Welfare, the Department of Labor, and so forth. The employees engaged in the administration of this act, as well as other Interior employees deserve the same protection as employees of these other agencies.

I have been informed by Mr. Clyde Webber, national president of the American Federation of Government Employees which represents many of these mine inspectors, that they fully support this provision of the act.

AMENDMENT OFFERED BY MR. RUPPE

Mr. RUPPE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RUPPE: page 223, line 2, strike the period, and insert a comma in lieu thereof, and add the following phrase "provided that with respect to coal to be mined for use in a synthetic fuel facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel facility is initiated."

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, the language in the legislation as it is presently written requires that a corporation or mining organization either begin to utilize the mine under the permit within 3 years of issuance of that permit or relinquish the permit. Generally speaking, I think that is a very wise proposal, in view of the fact that in too many instances in the past companies have secured a surface-mining permit but have simply failed to exercise that permit over a period of a few years and the coal has not been produced and the coal resource has been sat upon to the benefit of the mining company but not necessarily to the benefit of the American public.

However, we do have a particular problem that has arisen, particularly in the case of coal gasification systems and in the case of synthetic fuels.

For example, it is my understanding that a coal gasification project would take a great deal of time beyond the original 3-year period to actually come into production. In some instances, the cost of such a synthetic or coal gasification project would be in excess of $1 billion. It would require a very long leadtime, 5 or 6 years. It would require Federal Power Commission approval of the related pipeline facilities. It would require other Federal and State approvals with regard to water and sewer.

So actually all the permits and all the financing and all the Federal Power Commission approval simply could not be secured within a 3-year period.

Mr. Chairman, the amendment I have offered would give us in these instances of the synthetic fuels the regulatory authority to extend beyond 3 years the time

frame under which the company in question would have to begin mining operations.

Let me say that it is not possible to even begin mining operations and store the fuel, at least not in the case of lignite.

It is my understanding that lignite does not store very well. Second, if one does try to store ignite, it is susceptible of spontaneous combustion. For that reason, obviously, they cannot begin to mine and hold the product.

Therefore, I think we have to get, as my amendment would suggest, some latitude, some leeway, for the regulatory authority to go beyond the initial 3-year period under which operations would have to be initiated. I think this amendment does not go beyond the letter or beyond the spirit of the bill, and I do believe that it would be a very valuable addition to bring gasification systems into being.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the very large coal facilities do pose some special problems, and it is obvious that the mining might not be started in 3 years, even though one had committed himself legally and financially to construction and had actually begun construction of the plant facilities.

I believe that this is a similar problem presented by the "grandfathering" of existing mines in other sections of the bill, the committee included those mines for which there were "substantial legal and financial commitments." We viewed such commitments as being demonstrated where there is actual construction of a synthetic fuel or powerplant facility, so I believe the gentleman's amendment is consistent with this concept.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. RUPPE).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to section 506?

If not, the Clerk will read.

The Clerk reads as follows:

APPLICATION REQUIREMENTS

SEC. 507. (a) Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee or portion thereof as determined by the 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 regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and address of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral) to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent:

(2) the names and addresses of the owners of record of all surface and subsurface areas within five hundred feet of any part of the permit area;

(3) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which subsequent to 1960 has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) a copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(7) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) evidence of the applicant's legal right to enter and commence surface mining operations on the area affected;

(10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding trea so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.

(12) when requested by the regulatory authority, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(13) an accurate map or plan to an appropriate scale clearly showing (A) the land to be affected as of the date of application and (B) all types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. Such a map or plan shall among other things specified by the regulatory authority show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area;

(14) cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist (when specific subsurface information is deemed essential and requested by the regulatory authority), showing pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings or any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facilities; constructed or natural drainways and the location of any discharges to any suface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(15) a statement of the results of test borings or core samplings from the permit area, including logs of the drill holes; the thicknes of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(16) information pertaining to coal seams, test borings, or core samplings as required by this section shall be made available to any person with an interest which is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

(c) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the terms of the permit or any

renewal, including the length of all reclamation operations.

(d) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this Act.

(e) Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that section 507 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 228, line 23, after "authority," insert the following: "or other qualified personnel at State universities,".

(Mr. HARKIN asked and was given permission to revise and extend his remarks.)

Mr. HARKIN. Mr. Chairman, this amendment is just a technical amendment. I believe it is non-controversial.

It recognizes that in many State universities there are professional faculty members in engineering geology and plant sciences who are capable of preparing the detailed plans that this section calls for. However, it appears that under the wording of this section, they might be precluded from doing so unless it is amended.

Coal deposits in Iowa are very small deposits, and all that my amendment seeks to do is to encourage the planned use of these energy resources and small pockets to allow competent personnel in our State universities to draw up these plans. The purpose of the section is to assure that competent people prepare these plans, and my amendment assists in accomplishing that purpose.

Mr. Chairman, I urge the adoption of the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Arizona.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. I have gone over the amendment with the gentleman and with the distinguished gentleman from Iowa (Mr. SMITH), and it seems to me that the amendment makes sense.

The basic provision in the bill was not meant to preclude qualified persons from preparing mining applications—in fact it was directed towards assuring that such is the case.

The use of "State employees" such as University personnel in preparing mining and reclamation plans does not relieve the operator of the responsibility of "affirmatively demonstrating" that the reclamation requirements of H.R. 25 will be met. This requirement also is not intended to involve public employees who may be involved with the regulation of surface coal mining and reclamation activities as provided for in H.R. 25 in the preparation of mining plans and thus place them in a difficult or conflicting position.

Therefore, Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 507?

If not, the Clerk will read.

The Clerk read as follows:

RECLAMATION PLAN REQUIREMENTS

SEC. 508. (a) Each reclamation plan submitted as part of a permit application pursuant to any approved State program or a Federal program under the provisions of this Act shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal program can be accomplished, a statement of:

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) the condition of the land to be covered by the permit prior to any mining including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(3) the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any State and local governments or agencies thereof which would have to approve or authorize the proposed use of the land following reclamation;

(4) a detailed description of how the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(5) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation (where vegetation existed immediately prior to mining); an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 515;

(6) the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(7) the consideration which has been given to developing the reclamation plan in a manner consistent with local, physical environmental, and climatological conditions and current mining and reclamation technologies;

(8) the consideration which has been given to insuring the maximum practicable recovery of the mineral resource;

(9) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(10) the consideration which has been given to making the surface mining and reclamation operations consistent with applicable State and local land use plans and programs;

(11) all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) the results of test borings which the applicant has made at the area to be covered by the permit, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden: *Provided*, That information about the mineral shall be withheld by the regulatory authority if the applicant so requests;

(13) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of (A) the quantity and quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process, and (B) the rights of present users to such water; and

(14) such other requirements as the regulatory authority shall prescribe by regulation.

(b) Any information required by this section which is not on public file pursuant to State law shall be held in confidence by the regulatory authority.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that section 508 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Amend section 508(a)(5) by deleting on page 233, lines 2 and 3: "(where vegetation existed immediately prior to mining);".

Mr. MELCHER. Mr. Chairman, the reason I am offering this amendment is to restore some sense to the language that is involved in these two lines.

If the Members will refer to page 233 and the section I am amending, they will see that it requires "appropriate revegetation," and then the words in parentheses, "(where vegetation existed immediately prior to mining);" are to be deleted.

Some had thought, during debate on the bill in committee during some of our harriest sessions when amendments were being offered to amendments, that this would somehow take care of a desert situation where there is very sparse vegetation.

I would respectfully submit to the members of the committee that the words "appropriate revegetation" very adequately take care of a desert situation because "appropriate revegetation" there in the eyes of the regulatory agency would be returning the land to a condition where if rain fell on the desert it would develop its normal sparse vegetation. But what about reforestation? Clearly that would be revegetation.

If it is a case where a forest was cut down before mining commenced, trees were cut down and then mining occurred, and they want to put it back into a re-

forested condition, that is taken care of appropriately in revegetation. Where those conditions happen, then this is covered in that sense. In the case of land in Montana or other points in the West where some farmers practice summer fallow. It might be the case that, immediately prior to the mining, the land had been summer fallowed and to require that the land be returned to the same condition, would not serve any good purpose. Permitting land to be left only in a plowed-up condition should not be permitted in the bill and, indeed, in other sections of the bill, would not be permitted, but it would be suggested in this very unuseful and unnecessary phrase, that that might be the situation. The bill intends that the soil be capable of supporting appropriate revegetation and the deleted language is confusing and misleading.

It is for that purpose that I recommend to the committee this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a good amendment, and it ought to be adopted, and I support the amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Michigan.

Mr. RUPPE. What would be the appropriate revegetation in those instances where it is in a desert condition, and there had been no prior vegetation whatsoever?

Mr. MELCHER. I would point out to the gentleman from Michigan that even in the desert areas there is some type of vegetation some time during the year when it rains, and the bill after my amendment, of course, means returning the land to the condition that would be receptive, or the soil would be recepitve, when it rains, to produce the vegetation, which would be "appropriate revegetation" as stated in the bill. It does in no sense change the status that the regulatory agency would enforce and would accept in desert areas.

Mr. RUPPE. The gentleman is not suggesting, then, that the land would be required to provide for vegetation after mining where no vegetation had in effect been in existence prior to that?

Mr. MELCHER. No; I would say to the gentleman from Michigan, that I would not want to suggest that. In other parts of the bill we have stated very clearly that revegetation on the land to the condition at least as good as it was before is satisfactory revegetation.

Mr. RUPPE. Nothing had been there before, and nothing was good enough afterward; is that right?

Mr. MELCHER. Well, I would not want to say "nothing," because even in desert areas sometimes the rains come and are capable of providing vegetation, when there is a rainfall, and that is appropriate revegetation.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like to call the attention of the committee to the Congress position which the gentleman from Montana has put is. The gentleman says on the one hand that we can trust the judgment of the appropriate authority to interpret "appropriate revegetation," in other words, with regard to the desert areas, but we cannot trust the authority to exercise good judgment in the way of forested areas.

This is a serious kind of sophistry.

I agree it probably does not matter whether this language is in or out, but it simply weakens an already weak bill, but taking it out serves no purpose. It certainy makes some potential mining somewhere subject to challenge by litigation because it is practically impossible to revegetate an area in which there was no vegetation, which is the purpose of this qualified language in parentheses that we are striking. That is the only purpose the striking of this language will serve—to provide a base for litigation if somebody wants to attack a desert surface mine operation in the future. It is a very unfortunate use, whatever the gentleman's concerns are.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Montana.

Mr. MELCHER. I thank the gentleman for yielding.

I would like to make it clear that in no way would the amendment affect reforestation. I would just like to bring it to the Committee's attention that revegetation—that phrase by itself—will take care of reforestation if that is selected as a type of revegetation by the regulatory authority.

Mr. STEIGER of Arizona. That is my understanding, also. That, of course, makes the striking of the words even more meaningless, and the presence of the words does no harm. The striking of them, as the gentleman suggests, does sufficient potential harm.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. BAUCUS

Mr. BAUCUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUCUS: Page 232, line 22, insert a new paragraph "(5)" as follows and renumber all subsequent paragraphs:

"(5) a detailed description of the proposed revegetation plan, including the identification of plant species and appropriate assurances that viable seeds will be available in sufficient quantities to ensure that the proposed revegetation plan will be achieved in compliance with the proposed timetable for reclamation;".

Mr. BAUCUS. Mr. Chairman, this is a very simple amendment, but equally important, I believe. Very simply, what this amendment does is provide when a coal company submits its reclamation plan that the plan includes a statement of what types of species of seeds and revegetation the company intends to use in revegetating the stripped, reclaimed land; and, second, that the reclamation plan includes a statement that there is a sufficient availability of viable seeds pursuant to a reclamation plan.

The reasons for the amendment are very obvious. Different species of revegetation are important in significant areas of reclaimed land. Some adapt very well to highlands, others to lowlands; some are adaptable for sheep, others are adaptable for cattle; some prosper in arid regions, others in more humid areas. I think it is a very important amendment, and I urge its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I think this amendment relates to a problem the committee did not fully take into consideration. The amendment makes it explicit and is the type of detail we need. I support the amendment.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

I would be fascinated to know where the gentleman came up with the problem which this amendment contemplates. Did the gentleman run into some nonviable seed? Is that the purpose—to make sure that there is no seed that is not capable of regermination as a plot on the part of an evil demon?

Mr. BAUCUS. No, the purpose is more to the availability of the seeds, not so such to the viability. It relates more to the supply of seeds.

Mr. STEIGER of Arizona. If the gentleman will yield further, in other words, if a coal company announced that it was going to seed crested wheat, and they looked around and there was no crested wheat available, in that way they would duck their obligation?

Mr. BAUCUS. No, there has to be a statement that there is an availability of the supply of seeds.

Mr. STEIGER of Arizona. If the gentleman will yield further, of course, the gentleman realizes he is just burdening this thing with more administrative effort. While I realize there is some slight prestige in having one's name on an amendment, the net result is going to mean that there is going to have to be another document filed which has nothing to do with reclamation. Surely the gentleman does not suggest that this is going to eliminate the potential shortage of seeds or some such thing. Is the gentleman attacking the problem? I am being very serious.

Mr. BAUCUS. Yes.

Mr. STEIGER of Arizona. If the gentleman will yield further, what is the problem the gentleman is attacking?

Mr. BAUCUS. The problem is really twofold. With respect to the point the gentleman is making, the problem is adequate availability. At the present time there is some question as to the availability of some seeds.

Mr. STEIGER of Arizona. If the gen-

tleman will yield further, is he suggesting that this legislation would improve that situation as to the availability of seed? Somehow this is going to make seed more available?

Mr. BAUCUS. I think it will help, because this is only in the reclamation plan. The plan does not apply for another 2 years, roughly.

By that time we will be certain that there will be a sufficient supply of seeds. This will help to make that condition more certain.

Mr. STEIGER of Arizona. The legislation will anticipate the seed availability in 2 years?

Mr. BAUCUS. I think the thrust of this will help us to assure that there is a supply available. That is right.

Mr. STEIGER of Arizona. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. BAUCUS).

The question was taken; and on a division (demanded by Mr. STEIGER of Arizona) there were—ayes 38; noes 14.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to advise my colleagues that through an arrangement with the leadership we have agreed the Committee will rise at 5 o'clock tonight and we will try to complete consideration tomorrow. According to whispers and rumors current in the Chamber now, it appears that I might get by with a unanimous-consent request at this time, so I ask unanimous consent that the remainder of title V—not the bill but just the remainder of title V—be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. HECHLER of West Virginia. Mr. Chairman, reserving the right to object, I have additional amendments I wish to offer to title V.

Mr. UDALL. If the gentleman will yield, it would not be our intention, mine or the gentlewoman from Hawaii (Mrs. MINK), to cut off the offering of additional amendments. We might ask unanimous consent to limit debate on the amendments after they have been heard, but there would be no attempt to cut off the offering of additional amendments.

Mr. HECHLER of West Virginia. Mr. Chairman, I withdraw my reservation of objection.

Mr. STEIGER of Arizona. Mr. Chairman, reserving the right to object, if at the time 5 o'clock arrives we are in the process of considering one amendment or another, is it the intention of the gentleman to try to continue with that amendment and conclude it, or rise and continue tomorrow with that same amendment?

Mr. UDALL. We will try to finish as close to 5 o'clock as possible, and if there is a contentious amendment before us for consideration at 5 o'clock, we will ask to rise and we will continue consideration of that amendment tomorrow.

Mr. STEIGER of Arizona. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The remainder of title V is as follows:

PERFORMANCE BONDS

SEC. 509. (a) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, and conditional upon faithful performance of all the requirements of this Act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority on the basis of at least two independent estimates. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture and in no case shall the bond be less than $10,000.

(b) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 515. The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The regulatory authority may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorizaton to self-insure or bond such amount.

(d) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(e) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation obviously changes.

PERMIT APPROVAL OR DENIAL

SEC. 510. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 513, the regulatory authority shall grant or deny the application for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(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—

(1) all the requirements of this Act and the State or Federal program have been complied with;

(2) the applicant has demonstrated that reclamation as required by this Act and the State or Federal program can be accomplished under the reclamation plan contained in the permit application;

(3) the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 507(b) has been made and the proposed operation thereof has been designed to prevent irreparable offsite impacts to hydrologic balance;

(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 areas 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

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

(A) not have a substantial adverse affect on valley floors, underlain by unconsolidated streamland deposits where farming can be practiced on irrigated or naturally subirrigated haymeadows or other croplands (excluding undeveloped range lands), where such valley floors are significant to present or potential farming or ranching operations;

(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); or

(C) not alter the channel of a significant watercourse which is identified as a stream fed by (1) a spring, other ground-water discharge, or surface flow that flows an average of two hundred and fifty gallons per minute or more during one hundred and twenty days or more per year; and (2) a drainage area which encompasses ten thousand acres or more when measured above the lowest point of impact on the watercourse by the proposed surface coal mining operation, as documented by the State or Federal regulatory authority.

(c) The applicant shall file with his permit application a schedule listing any and all notices of violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection incurred by the

applicant in connection with any surface coal mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

REVISION OF PERMITS

SEC. 511. (a)(1) During the term of the permit the permittee may submit an application, together with a revised reclamation plan, to the regulatory authority for a revision of the permit.

(2) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised Reclamation Plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided*, That any revisions which propose a substantial change in the intended future use of the land or significant alterations in the Reclamation Plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(b) No transfer, assignment, or sale of the rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority.

(c) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided*, That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

COAL EXPLORATION PERMITS

SEC. 512. (a) Each State program or Federal program shall include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted under a permit issued by the regulatory authority.

(b) Each application for a coal exploration permit pursuant to an approved State or Federal program under the provisions of this Act shall be accompanied by a fee established by the 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 regulatory authority and shall include a description of the purpose of the proposed exploration project. The supporting technical data shall include, among other things:

(1) a general description of the existing environment;

(2) the location of the area of exploration by either metes or bounds, lot, tract, range, or section, whichever is most applicable, including a copy of the pertinent United States Geological Survey topographical map or maps with the area to be explored delineated thereon;

(3) a description of existing roads, railroads, utilities, and rights-of-way, if not shown on the topographical map;

(4) the location of all surface bodies of water, if not shown on the topographical map;

(5) the planned approximate location of any access roads, cuts, drill holes, and necessary facilities that may be constructed in the course of exploration, all of which shall be plotted on the topographical map;

(6) the estimated time of exploration;

(7) the ownership of the surface land to be explored;

(8) the written permission of all surface landowners of any exploration activities, except where the applicant owns such exploration rights;

(9) provisions for reclamation of all land disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment; and

(10) such other information as the regulatory authority may require.

(c) Specifically identified information submitted by the applicant in the application and supporting technical data as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the applicant shall not be available for public examination.

(d) If an applicant is denied a coal exploration permit under this Act, or if the regulatory authority fails to act within a reasonable time, then the applicant may seek relief under the appropriate administrative procedures.

(e) Any person who conducts any coal exploration activities in connection with surface coal mining operations under this Act without first having obtained a permit to explore from the appropriate regulatory authority or shall fail to conduct such exploration activities in a manner consistent with his approved coal exploration permit, shall be subject to the provisions of section 518.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 513. (a) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person with a valid legal interest or the officer or head of any Federal, State or local governmental agency or authority shall have the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the regulatory authority shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the regulatory authority shall respond to the written objections in writing. Such response shall include the regulatory authority's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The regulatory authority's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or reclamation which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not be held.

(c) For the purpose of such hearing, the regulatory authority may administer oaths, subpena witnesses, or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the regulatory authority.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 514. (a) If a public hearing has been held pursuant to section 513(b), the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reason therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 513(b), the regulatory authority shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper investigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordance with State or Federal law.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 515. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.

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

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use polices and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highways, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authoried pursuant to this Act): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficent, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste material to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: And *provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overbuden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

(4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) restore the topsoil or the best available subsoil which has been segregated and preserved;

(7) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(8) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(9) fill all auger holes with an impervious and noncombustible material in order to prevent drainage;

(10) minimize the disturbances to the prevailing hydrologic balance of the mine-site 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—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(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;

(C) removing temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

(D) restoring recharge capacity of the aquifer at the mine site to approximate premining conditions;

(E) preserving throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semi-arid areas of the country; and

(F) such other actions as the regulatory authority may prescribe;

(11) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated to the provisions of this Act;

(12) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent break-throughs and to protect health or safety of miners: *Provided,* That the regulatory authority shall permit an operator to mine closer to an abandoned underground mine: *Provided,* That this does not create hazards to the health and safety of miners; or shall permit an operator to mine near, through or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of the Act;

(13) with respect to the surface disposal of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, the United States Army Corps of Engineers is to supervise the design, location, construction, operation, maintenance, and abandonment of all existing and new coal mine waste embankments, dams, and refuse piles used for the disposal of all such mine wastes, in accordance with the same standards used in the design, location, construction, operation, maintenance, and abandonment of flood control dams and other such structures in their public works program.

(14) insure that all debris, acid forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or sustained combustion;

(15) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

(A) provide adequate advance written notice by publication and/or posting of the planned blasting schedule to local governments and to residents who might be affected by the use of such explosives and maintain for a period of at least two years a log of the magnitudes and times of blasts; and

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to pre-

vent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

(17) insure that the construction maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided,* That the regulatory authority may permit the retention after mining of certain access roads where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

(18) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(19) establish on the regraded areas, and all other lands affected, a diverse, effective and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided,* That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further,* That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exception to the provisions of paragraph (19) above; and

(21) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this Act, taking into consideration the physical, climatological, and other characteristics of the site, and to insure the maximum practicable recovery of the mineral resources.

(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.

(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;

(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 coment 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.

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

(A) the toe of the lowest coal seam mined 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 outslopes 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.

(d) The following performance standards shall be applicable to steep slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however,* That the provisions of this subsection (d) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or prediminantly flat area:

(1) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, soil, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut, except that where necessary soil or spoil material from the initial block or short linear cut of earth necessary to obtain initial access to the coal seam in a new surface coal mining operation can be placed temporarily on a limited and specified area of the downslope below the initial cut if the permittee demonstrates that such soil or spoil material will not slide and that the other requirements of this subsection can still be met: *Prvided.* That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraphs 515(b)(3) or 515(d)(2) or excess spoil from a surface coal mining operation granted a variance under subsection 515(c) may be permanently stored at such offsite spoil storage areas as the regulatory authority shall designate and for the purposes of his Act such areas shall be deemed in all respects to be part of the lands affected by surface coal mining operations. Such offsite spoil storage areas shall be 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.

(2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highway unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section; *Provided, however,* That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this section, the term "steepslope" is any slope above twenty degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS

SEC. 516. (a) The Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, embodying the following requirements and in accordance with the procedures established under section 501 of this Act.

(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—

(1) adopt measures consistent with known technology in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and maintain the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided,* That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining;

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(3) fill or seal exploratory holes no longer necessary for mining, maximizing to the extent practicable return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles created by the permittee from curreit operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not pollute surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) with respect to the surface disposal of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, the United States Army Corps of Engineers is to supervise the design, location, construction, operation, maintenance, and abandonment of all existing and new coal mine waste embankments, dams, and refuse piles used for the disposal of all such mine wastes, in accordance with the same standards used in the design, location, construction, operation, maintenance, and abandonment of flood control dams and other such structures in their public works program.

(6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) protect offsite areas from damages which may result from such mining operations;

(8) eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

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

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

(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.

(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 size 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 operations: 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.

(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) The provisions of title V of this Act relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mining with such modifications to the permits application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act.

INSPECTIONS AND MONITORING

SEC. 517. (a) The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act—

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

(2) for those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface coal mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the regulatory authority shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or regulatory authority shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain at the entrances to the surface coal mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

(e) Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the regulatory authority shall be made immediately available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining.

PENALTIES

SEC. 518. (a). In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 520 or section 521, the civil penalty shall be assessed. Such penalty shall not exceed $5,000 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropriateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Sec-

retary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Secretary shall consolidate such hearings with other proceedings under section 521 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in this section, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of 6 per centum per annum or at the prevailing Department of the Treasury borrowing rate, whichever, is greater, shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owned under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 526 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropirate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 520, section 525 or section 526 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 520, section 525 or section 526 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(i) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

RELEASE OF PERFORMANCE BONDS OR DEPOSITS

SEC. 519. (a) The permittee may file a request with the regulatory authority for the release of all or part of a performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the operator shall submit a copy of an advertisement placed on five successive days in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type and the approximate dates of reclamation work performed, and the description of the results achieved as they relate to the operator's approved reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface coal mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(b) Upon receipt of the notification and request, the regulatory authority shall within a reasonable time conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution.

(c) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of 60 per centum of the bond or collateral for the applicable permit area;

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in section 515 of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph (2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area above natural levels and seasonal flow conditions as measured prior to any mining;

(3) When the operator has completed successfully all surface coal mining and reclamation activities, but not before the expiration of the period specified for operator responsibility in section 515:

Provided, however, That no bond shall be fully released until all reclamation requirements of this Act are fully met.

(d) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release.

(e) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the bond.

(f) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality twice a week for two consecutive weeks.

(g) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, supena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the regulatory authority.

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, and

(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 regulation promulgated thereunder, or order issued by the regulatory authority; 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—

(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the provisions, regulations, or order; or

(B) if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act or the regulations there-

under, or the order, but in any such action in a court of the United States any person may intervene as a matter of right; or

(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 or lack of 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.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary or the appropriate State regulatory authority).

(f) Any resident of the United States who is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan of reclamation issued by the Secretary, may bring an action for damage (including attorney fees) in an appropriate United States district court.

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 thta any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation 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, irreparable 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 irreparable 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. If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the Secretary or his authorized representative, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the 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.

(4) 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 a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also find that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Secretary or his authorized representative shall forthwith suspend or revoke the perpermit.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of any approved State program appear to result from a failure of the State to enforce such State program effectively, he shall so notify the State. If the Secretary finds that such failures extends beyond thirty days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representatives in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(d) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

SEC. 522. (a)(1) To be eligible to assume primary regulatory authority pursuant to section 503, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory author-

ity determines that reclamation pursuant to the requirements of this Act is not feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with existing land use plans or programs; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for surface coal mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section, and measures to protect the legal interests of affected individuals in all aspects of the State planning process.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to September 1, 1974.

(b) The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 504, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section.

(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. As soon as practicable 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.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resource of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

(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—

(1) on any lands within the boundaries

(1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress;

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

(3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site;

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

(5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

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 712 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.

(b) The requirements of this Act and the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require any surface mining and reclamation operations to conform with the requirements of this Act and the regulations issued pursuant to this Act.

(c) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface coal mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single management unit. To implement a joint Federal-State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding duality of administration of a single permit for surface coal mining and reclamation operations.

(d) Except as specifically provided in subsection (c) this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on the Federal lands.

(e) The Secretary shall develop a program to assure that with respect to the granting of permits, leases, or contracts for coal owned by the United States, that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC CORPORATIONS

SEC. 524. Any agency, unit, or instrumentality of Federal, State, or local government, including any publicly owned utility or publicly owned corporation of Federal, State, or local government, which proposes to engage in surface coal mining operations which are subject to the requirements of this Act shall comply with the provisions of title V.

REVIEW BY SECRETARY

SEC. 525. (a) (1) A permittee issued a notice or order by the Secretary pursuant to the provisions of subparagraphs (a) (2) and (3) of section 521 of this title, or pursuant to a Federal program or the Federal lands program or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay or any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings

of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 521 of this title, a Federal program or the Federal lands program together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 521, the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a writen decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

JUDICIAL REVIEW

SEC. 526. (a)(1) Any action of the Secretary to approve or disapprove a State program or to prepare and promulgate a Federal program pursuant to this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within sixty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and the Attorney General and thereupon the Secretary shall certify, and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States district court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this Act, the court shall have jurisdiction to enter an order requiring payment or any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 520.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or many remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to any order issued under section 521 of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

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

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by the court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 520.

SPECIAL BITUMINOUS COAL MINES

SEC. 527. The regulatory authority is authorized to and shall issue separate regulations for those special bituminous coal surface mines located west of the one hundredth meridian west longitude which meet the following criteria:

(a) the excavation of the specific mine pit takes place on the same relatively limited site for an extended period of time;

(b) the excavation of the specific mine pit follows a coal seam having an inclination of fifteen degrees or more from the horizontal, and continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain stability or as necessary to accommodate the orderly expansion of the total mining operation;

(c) the excavation of the specific mine pit involves the mining of more than one coal seam and mining has been initiated on the deepest coal seam contemplated to be mined in the current operations;

(d) the amount of material removed is large in proportion to the surface area disturbed;

(e) there is no practicable alternative method of mining the coal involved;

(f) there is no practicable method to reclaim the land in the manner required by this Act; and

(g) the specific mine pit has been actually producing coal since January 1, 1972, in such manner as to meet the criteria set forth in this section, and, because of past duration of mining, is substantially committed to a mode of operation which warants exceptions to some provisions of this title.

Such alternative regulations shall pertain only to the standards governing onsite handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regrading to the approximate original contour and shall specify that remaining highwalls are stable. All other performance standards in this title shall apply to such mines.

SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT

SEC. 528. The provisions of this Act shall not apply to any of the following activities:

(1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and

(2) the extraction of coal for commercial purposes where the surface mining operation affects two acres or less.

ANTHRACITE COAL MINES

SEC. 529. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of sections 515 and 516. Provisions of sections 509 and 519 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: Provided, however, That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recomendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Amend H.R. 25 by striking the language in section 515(b)(10)(D) and adding the following new language:

"(D) restoring the recharge capacity of the mined area to approximate premining condition

"(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."

Reletter following subsections accordingly.

Mr. MELCHER. Mr. Chairman, this amendment comes to me after virtually the identical language was adopted by the Senate in their version of the bill and at the recommendation of Montana Power Co. who through Western Energy is engaged in strip mining at Colstrip, Mont.

The first part, (D) refers to restoring the capacity of the "mined area" to approximate premining conditions. As we have the bill before us we are talking about the "recharge capacity of the aquifer at the mine site." There are other points to consider. One is when coal is the aquifer and we remove it, it is pretty difficult to come up with an equal aquifer, but what we are really intending in the bill is to restore the recharge capacity, the amount of water that was there before.

That is what is important. Then rather than saying "mine site," the amendment

says "mined area." Rather than just restrict the requirement to the very narrow area being mined, my amendment protects the water capacity of the area around the mine site. Farmers and ranchers around the perimeter of the mined area, may find themselves having their water diminished or damaged. At times they are seriously damaged. We want to prevent that. The first part of my amendment would give them that protection.

The next section (E) deals with replacing the water supply of an owner in interest of real property; in other words, the owners and the ranchers around the area. If they are deprived of their water, the mining company would have to replace it. It is accepted by the Montana Power Co. who is in the business of mining a Colstrip; they know it is needed because they are having this very problem with the ranchers and the farmers surrounding the area where they are engaged in mining. They have cooperated with the Montana Legislature, which is now in session and which has adopted this type of language for a new requirement in the State of Montana.

It is time we put it into the national bill also, and I urge the committee to look favorably on this amendment and pass it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. In looking at the amendment, the 4th line from the bottom, the words "useful underground source"——

Mr. MELCHER. Underground or surface water are both covered in the amendment to give landowners the protection in both instances.

Mr. EVANS of Colorado. I see that the words "underground or surface" are in the amendment.

Mr. MELCHER. Yes, they are there.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EVANS OF COLORADO

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado: Beginning on page 238, strike out line 25 and all that follows down through line 6 on page 239 and insert in lieu thereof:

"(A) not adversely affect, or be located within, alluvial valley floors, underlain by unconsolidated stream-laid deposits where farming or ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands, or croplands; or".

(Mr. EVANS of Colorado asked and was given permission to revise and extend his remarks.)

Mr. EVANS of Colorado. Mr. Chairman, my amendment deals with the section of the bill which protects alluvial valley floors in arid and semiarid areas.

Most Members are aware that strip mining can alter dramatically the quality and quantity of water in and around mined areas. For the most part, such changes have been detrimental—large increases in sedimentation; polluting of waters by acid, salts, or other toxic drainage; and the disruption of ground water and surface water flows which can reduce the availability of water. These impacts are detailed in the committee report on H.R. 25. The seriousness of these impacts is magnified in arid and semiarid regions. I believe it is necessary to assure that any bill passed by the House to regulate the impacts of surface mining contain adequate provisions for the protection of water resources in the West.

My amendment will prevent the location of coal mining operations within or advesely affecting alluvial valley floors in the West where farming and ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands, or other croplands.

Alluvial valley floors are characterized by unconsolidated deposits of materials such as clay, silt, sand, or gravel formed by streams where the water table is so near the surface that it directly supports vegetation. Alluvial valley floors receive recharge from a large area, and water availability in the valley floor in effect is far in excess of availability of adjoining lands.

The danger posed by surface mining is to the agricultural lands supported by the high water table in an alluvial valley floor. If the water table is lowered as a result of surface mining, the surface vegetation cannot survive and water may not be available for domestic farming and livestock uses. In addition, the water that is available after surface mining is likely to be significantly higher in sediment, salts, and other dissolved chemicals and metals.

The classic case of a damaged alluvial floor is in the Rio Puerco River Basin in New Mexico. The river is a tributary of the Rio Grande and comprises about 25 percent of its drainage basin. In the 1870's, it was a thriving agricultural area. Today it is virtually a desert. Briefly stated, the principal cause was overgrazing, which increased erosion and thereby upset the hydrologic balance. The water table was lowered by erosion of the stream channel which had deepened 40 feet by 1946. During this period, plants could no longer tap the moisture of the lowered water table and died, increasing the erosion and worsening the cycle. The potential damage caused by strip mining would not be from overgrazing, of course, but the results could be the same as in the Rio Puerco Basin.

A study conducted by the Forest Service and the Bureau of Land Management for the Decker-Birney area in Montana recommends no leasing of Federal coal lands in flood plains to avoid downstream polution. Even though many alluvial valley floors are larger than commonly defined flood plains, most flood plains in the semiarid and arid regions of the West are on alluvial valley floors.

The Montana Bureau of Mines and Geology issued a report by Wayne A. Van Voast evaluating the hydrologic effects of a strip mine located on an alluvial valley floor near Decker Mont. Van Voast, a State hydrologist, has found that water levels in the area have dropped 10 to 50 feet in an area over six times as large as that actually mined and that the water coming out of the spoils into the Tongue River is highly mineralized. Its quality is similar to that of saline seeps.

In the most comprehensive study completed to date on surface mining in the West, an impartial study committee formed by the National Academy of Sciences concluded:

In the planning of any proposed mining and rehabilitation it is essential to stipulate that alluvial valley floors and stream channels be preserved.

My amendment embodies this recommendation of the National Academy and protects these productive lands that are so vital to the agricultural economy of the West and the ability of the Nation to produce food and fiber.

The definition of alluvial valley floors contained in H.R. 25 reflects the technical basis of the National Academy of Sciences report. This is the same definition that is used in the bill proposed by the Ford administration.

H.R. 25 represents a most commendable effort by the House Interior and Insular Affairs Committee to find a middle course where coal can be surface mined but appropriate safeguards will be taken. Many believe, however, that if we are truly to protect the water resources of the West we must preserve aquifers—a move that would prohibit most strip mining in the Northern Plains since the shallow coal seams often serve as aquifers. In proposing the protection of alluvial valley floors, I am taking a middle course that is much more limited in impact than a provision protecting aquifers would be. We should be forthright in recognizing that it is impossible, as a practical matter, to restore the hydrologic function of an alluvial valley floor once it has been strip mined.

In summary, my amendment says that where there is an alluvial valley floor "where farming or ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands or croplands," no one can strip mine within such an area, and no one can strip mine in such a manner or place that would adversely affect such an area.

If my amendment passes, farmers and ranchers would not have to define and prove "a substantial adverse effect" on such an area, and no one can strip mine to define and prove that the area is "significant to present or potential farming or ranching operations."

Mr. Chairman, this is almost the same amendment that I offered last year and I will not take much time of the committee to go into it further, except to say this. It clarifies the language, it stiffens the language. It takes away from the farmer or rancher whose water rights are adversely affected the burden of proving "a substantial adverse effect" as would be the case under the committee language.

It also would do away with the burden on his part to prove significant damage to present or potential farming or ranching operations.

In other words, basically as drafted my amendment would provide to read as follows:

(5) the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would not adversely affect, or be located within, alluvial valley floors, underlain by unconsoli-

dated stream-laid deposits where farming or ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands, or croplands; or",—and strike the balance of that section.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. If it does not hut the gentleman's amendment, I would like to rise in strong support of the gentleman's amendment.

Mr. EVANS of Colorado. I thank the gentleman for his support.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Is the gentleman aware the Senate has adopted some language in this regard? Is the gentleman aware of some not insignificant compromise in what the gentleman from Arizona referred to as the Home agreement? Is the gentleman aware this would do violence to whatever the Senate adopted—not that it is necessarily bad, but is the gentleman aware of that?

Mr. EVANS of Colorado. I am aware of that and I would hope that the clarity and the stiffness of this provision in behalf of the ranchers and farmers in the arid and semiarid West would be overwhelmingly supported and, therefore, I ask the gentleman's support for the amendment.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I have just had a chance to study the language in the amendment. As I correct in stating that this would be a prohibition against mining in alluvial valley floors if the balance of the language of the amendment exists, and then it is a prohibition as I have indicated, that there will be no mining where farming can be practiced? It does not say where it is being practiced, but where it could be.

Mr. EVANS of Colorado. It could be because of the existence of subterranean water or flooding.

Mr. RUPPE. I think the committee should understand it. In my opinion, I think that for the sake of clarity perhaps, the gentleman would agree with me that this would effectively prohibit all mining of alluvial valley floors in the West. If we get to a definition, that is virtually all of the valleys of the entire West, is it not?

Mr. EVANS of Colorado. I would disagree with the gentleman. The definition contained in the bill is the definition recommended by the National Academy of Science, as I understand it. It is a clear, scientific basis of determining what areas are covered by the definition.

I am told also that this definition would only preclude the strip mining of coal of approximately 2 percent, for example, of the strippable coal in the State of Wyoming.

Mr. RUPPE. Mr. Chairman, I would have to rise in opposition to the amendment. It would seem to me, in looking at the alluvial valley floors, the vegetation, the productive capacity of those floors, I would certainly support language that would protect 100 percent and completely the present capacity of the alluvial valley floors for productive purposes, but I do not think we can simply set aside alluvial valley floors and preclude mining on the grounds that they could be used.

Mr. EVANS of Colorado. We would have to agree they also are capable of being productive at the time. Certainly, I would agree with the gentleman that if we are going to look 10 or 15 or 20 years into the future and guess that probably sometime it might be so used, even though it is not so used now, I would agree that would be a valid criticism of the amendment, but if the land either is now or could be now used for agricultural or ranching purposes, my amendment would preclude strip mining it.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is similar to an amendment adopted in the House when we considered this legislation last year. I supported it then, and I support it now.

I would say to the gentleman from Michigan that some of the concerns he raises are viable, and the other body has a much weaker provision. It may be necessary to blend the two to finally get a bill.

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

(Mr. RUPPE asked and was given permission to revise and extend his remarks.)

Mr. RUPPE. Mr. Chairman, I would like to point out that "alluvial valley floors," on page 315 of the bill, means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities.

I believe from that language, alluvial valley floors would mean any area in the West, where there are streams or where a stream has flowed in the past and flowed at any time during the year. So, in effect, in any area of the West where there is stream water during any portion of the year, even during the spring runoff, we define that area as alluvial valley floor.

Under the language of the amendment offered by my colleague from Colorado, mining of all those areas would automatically be banned. I think we make a mistake by simply saying that we will take this entire valley area or series of valleys in the West and cut them off from being mined in the future. It seems to me that what we want to get at is the protection of productive capacity of those alluvial valley floors now. What is grown there? Where are those areas? Where is vegetation being usefully employed? Where is ranching and other productive production being undertaken?

It seems to me that it is those processes we want to protect, the productive capacity of those present alluvial valley floors in the West. I do not think we want to put them off limits to mining. This is a sharp distinction. We want, first of all and foremost, to protect them for their productive capacity, but I do not think we want to put the entire area off limits to mining. It is wasteful and a complete loss of valuable resources when we need all the surface mined coal we can economically and rapidly secure.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. With pleasure.

Mr. EVANS of Colorado. Mr. Chairman, if I had any fear that the consequences of my amendment would result in a withdrawal of thousands of strippable acres in coal mining acres and from mining, I would not propose it.

I am satisfied, from the expert advice I get from the definitions contained already in the bill that if this were to pass, as I say, about 2 percent of the strippable coal in Wyoming—and only 2 percent—would be adversely affected. In other words, 2 percent of that which could be mined otherwise could not be mined if this amendment were to pass. So I ask approval of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS).

The question was taken; and on a division (demanded by Mr. RUPPE) there were—ayes 26, noes 16.

So the amendment was agreed to.

Mr. RHODES. Mr. Chairman, I have become very concerned over the adverse impact H.R. 25 will have on the consumers of the country. It is estimated that utility rates for electricity could increase between 8 and 15 percent.

In addition to this substantial impact nationally, I have attempted to get some specific feeling for the impact in Arizona. I have been informed by some utility companies in Arizona that the known costs under H.R. 25 will increase their costs by approximately $3 a ton on coal. This would interpolate into approximately a 5-percent increase in the electric bill for Arizona residents.

In order to understand some of the problems for Arizona, you must realize that currently only 50 percent of electricity utilized within the State is produced by coal-fired generation. By 1980, however, it is projected that at least 80 percent of Arizona's electricity will be coal-fired. This will tie electrical rates even closer to the cost of coal, and increases in coal will have a much greater percentage impact in electrical rates.

In addition to increased utility rates, H.R. 25 could result in a delay of the construction of the Coronado generating station near St. Johns, Ariz. This project, scheduled to take 4 years, would be set back so that planned generating capacity will not be on line. Moreover, this will result in the delay of some 1,600 jobs.

It is difficult to determine exactly how much beyond the $3 estimate the price of coal per ton will be raised in Arizona due to H.R. 25. It is significant to note, however, that additional factors, such as productivity losses and price increases due to possible coal shortages, must be given serious consideration.

Mr. BADILLO. Mr. Chairman, I rise in support of H.R. 25, the Surface Mining Control and Reclamation Act of 1975 and trust that we will have better luck in this Congress than we have had in the past in our efforts to regulate coal surface mining nationally. In view

of the fact that coal represents over 90 percent of our total hydrocarbon energy reserves, there can be no question that this form of energy will be called upon to supply a significant proportion of our energy needs in the years to come. At the same time, it is clear that neither the coal operators nor the individual States can be relied upon to take meaningful steps to limit or reduce the social and environmental damage which is the inevitable byproduct of coal mining.

H.R. 25 seeks to establish a system of minimum Federal enforcement standards. I wholeheartedly support this goal, but I think it is important to amend H.R. 25 so that the minimum standards are high enough to protect the environment and individuals that are left behind when the coal industry leaves the area. I support the Spellman steep slope ban to section 515 which would prevent the issuance of any permits for slopes over 20 degrees, and would ban all mining on such slopes after a 3-year period. I concur that strip mining should be prohibited on these steep slopes because of the difficulties with erosion, water pollution, and landslides that pose serious danger to the public. This ban will only effect the curtailment of 1 percent of our total coal reserves.

Section 510 of H.R. 25 should be amended to ban strip mining in alluvial floors in Western States. The National Academy of Science recommended:

> In planning of any proposed mining and rehabilitation it is essential to stipulate that the alluvial floor be preserved.

The academy experts say that such a ban is the only way to protect the fragil subirrigated grazing lands essential to agriculture and cattle ranching in Western areas.

Section 510 should also be amended to prohibit the movement, interruption, or destruction of any significant watercourse during mining operations. I also concur with environmentalists' assertions that mining or reclamation activities should not be within 500 feet of such watercourses. This is the minimum requirement needed to protect bodies of water from the acid drainage and sedimentation caused by strip mining operations.

Another amendment to section 714 is needed to protect the rights of surface owners. I am in favor of requiring written consent of surface owners so that there is documentation of their consent. The surface owner should be adequately compensated for improvements that they have invested in the land. In some States coal operators have precedence over the surface owner, and coal companies now strip coal on land acquired by the surface owner several years ago.

I am also in support of amending section 522 to protect national grasslands. It is also important to amend section 515 to require burial and compacting of toxic materials.

Mr. Chairman, I regret the defeat on Friday of the Dingell amendment that would have put the regulatory authority of this legislation under the Environmental Protection Agency. I believe the compromise alternative offered by Mr. SEIBERLING that put the authority under the Assistant Secretary for Land and Water Resources of the Department of the Interior will be adequate only if the Department of the Interior understands the importance of aggressively regulating this program.

Mr. Chairman, the impact of this legislation on future generations is immeasurable and we must therefore work to improve this bill as much as possible. I trust that the bill that we finally enact in the House will be stronger than the one approved in the committee.

Mr. UDALL. Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and, the Speaker having resumed the Chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 25) 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, had come to no resolution thereon.

which would share a portion of OCS revenues with adjacent coastal States while the remaining revenues would be placed into a Marine Resources Conservation and Development Funds.

Finally, our Government during the current negotiations on the law of the sea has proposed that the United States would share certain revenues derived from oil and gas production on the shelf with the international community. It is, therefore, possible that approval of this amendment today could have an undesirable effect on our current LOS negotiations and may somewhat limit our ability to achieve an acceptable international agreement in Geneva.

All of these competing claims must be considered in detail prior to determining the purposes for which OCS revenues will be used.

Consequently, I believed this amendment is premature in nature, especially since my subcommittee, which has exclusive jurisdiction over the distribution of OCS revenues, intends to hold extensive hearings to resolve these complex issues.

I should also note that the administration is opposed to earmarking OCS revenues for particular purposes and believes that they should continue to be placed in the General Treasury. For example, in commenting on H.R. 9132, the Department of the Interior stated—

> The practice of earmarking budget receipts for certain expenditures is not consistent with sound budgetary practice, since it introduces unnecessary inflexibility into the budget process.

For these reasons I urge my colleagues to defeat the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

SPEECH OF

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 17, 1975

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 25) to provide for the regulation of surface coal mining operations in the United States, to authorize the Secretary of the Interior to make grants to States to encourage the State regulation of surface mining, and for other purposes.

Mr. EILBERG. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

This amendment is predicated on a belief that the public at large rather than the coal industry should be responsible for meeting the cost of restoring land which has been despoiled by strip mining. First of all, I do not believe that this is a valid proposition, and second, there is no logical reason why OCS revenues should be used for this purpose.

In addition, I should bring to my colleagues' attention the fact that there are several conflicting views as to the proper recipients of revenues derived from the development of the Outer Continental Shelf.

For example, some have suggested that OCS revenues be reserved for the environmental impacts caused by the accelerated leasing program recently announced by the administration. Others have recommended that OCS revenues be shared with adjacent coastal States which are most seriously and directly affected by OCS development. In addition, my Subcommittee on Immigration, Citizenship, and International Law has pending before it H.R. 4920 and H.R. 376,

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

SPEECH OF

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 14, 1975

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 25) 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.

Mr. SEIBERLING. Mr. Chairman, this is a very simple amendment. It is one which I think will solve the problem we have been wrestling with by making it clear that the individual who is in charge of the Office of Surface Mining Reclamation and Enforcement will report to the Assistant Secretary who has to do with land and water resources rather than the one who has to do with coal mine safety and enforcement. This will put him at a level equal to the Administrator of MESA.

Mr. Chairman, that is all there is to it.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I will ask the gentleman, is there a copy of the gentleman's amendment available anywhere?

Mr. SEIBERLING. No. The Clerk has a copy. I wrote it out in longhand.

Mr. STEIGER of Arizona. Does the Clerk intend to vote on the amendment?

Mr. SEIBERLING. That is up to him.

Mr. STEIGER of Arizona. Mr. Chairman, perhaps there are some of us who would vote for it if we could see what it says.

I now have a copy of the amendment, and I see that the handwriting is terrible.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this amendment goes a small way toward meeting the objections raised by the gentleman from Michigan (Mr. DINGELL). I think the amendment strengthens the bill, and I support it.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for his remarks.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment.

I realize that no Member here knows what is in this bill, but this is ridiculous. There is not a single Member here who understands what we are doing by striking something and adding "under the Assistant Secretary for Land and Water Resources."

I would suggest to my colleagues that whatever this remedies cannot possibly be worthy of support, for it means further destruction in an already totally destructive process.

Mr. Chairman, I will ask my friend, the gentleman from Ohio, to either withdraw this amendment or to explain it further. I suggest that if he takes the time to explain it, it clearly is not going to be listened to. And even if every Member in this room at this moment understood it, that would still be less than one-quarter of the Congress.

Mr. Chairman, it just seems to me that my friend, the gentleman from Ohio, is asking us to take an awful lot on good faith. If it is not a measured, substantial amendment, it should not be handled in this way, and if it is, it certainly should

not be handled like this in this type of legislation.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the amendment is very simple.

Mr. STEIGER of Arizona. They always are.

Mr. UDALL. Mr. Chairman, I think my friend, the gentleman from Arizona, can understand it. I believe this is so simple that the people in the Interior Department, even the Members over there, can understand it.

Mr. STEIGER of Arizona. Mr. Chairman, I was hoping he would not make it so plain that the RECORD would understand it.

Mr. UDALL. Mr. Chairman, there are several Assistant Secretaries of the Interior.

Mr. STEIGER of Arizona. I thank the gentleman for pointing that out.

Mr. UDALL. Mr. Chairman, some of them deal with production of resources and the management of public lands; others are more concerned with conservation and parks.

What the gentleman's amendment says is this: "Let us put this new Office of Surface Mining Reclamation and Control under that Assistant Secretary who deals with land and water resources and not under one of the other Assistant Secretaries."

Mr. STEIGER of Arizona. Mr. Chairman, I will ask the gentleman from Ohio this: What is the gentleman's rationale? Does he know something about the character and makeup of the Assistant Secretary of Land and Water Resources that we do not know about the character of some of the others? Is this a reflection on the character of the other legion of Assistant Secretaries? Why does the gentleman make this differentiation?

Mr. SEIBERLING. Mr. Chairman, if the gentleman from Arizona will yield, the gentleman happened to testify before my subcommittee today, so I can safely say he is a gentleman of fine character. But that has nothing to do with the case.

Mr. STEIGER of Arizona. The gentleman likes the present Assistant Secretary for Land and Water Resources?

Mr. SEIBERLING. I really have no opinion.

Mr. STEIGER of Arizona. The gentleman knows nothing about him?

Mr. SEIBERLING. I have no opinion.

Mr. STEIGER of Arizona. The gentleman has no opinion about him at all, and yet he wants us to take this blanket amendment and translate it into the statute.

Mr. SEIBERLING. Mr. Chairman, I have not——

Mr. STEIGER of Arizona. Mr. Chairman, I will ask my friend, the gentleman from Ohio, is that not so?

Mr. SEIBERLING. This is not an ad hominem amendment.

Mr. STEIGER of Arizona. I will not yield any further. I tell the distinguished gentleman this: I believe the phrase is: "Nice guys finish last." I will not yield any further.

I want to tell my friend, the gentleman from Ohio (Mr. SEIBERLING), that I do not think he ought to put this new bureau under that sort of person.

Mr. Chairman, I suggest that we vote this amendment down and press on.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 25) 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.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 25, with Mr. SMITH of Iowa in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on yesterday, it has been agreed that the remainder of title V of the substitute committee amendment, sections 509 through 529 inclusive, ending on line 3, page 306, would be considered as read and open to amendment at any point.

The Chair wishes to announce that to make the proceedings more orderly he is going to recognize section 509 followed by section 510, and so forth.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been asked by a number of the members of the committee as to our intentions with regard to the handling of this bill today. The leadership on the majority side has a long program this week, and we discussed the situation with them. It will be our purpose to stay as long as necessary today to finish consideration of this bill. We are now on title V of seven titles. We know of about 15 pending amendments. We will move along as expeditiously as possible, but it will be our purpose to stay as late as necessary this evening to finish work on the bill.

AMENDMENTS OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. HECHLER of West Virginia: Page 256, line 11, after the period, insert the following:

"No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment."

Page 267, line 2, after the period, insert the following:

"No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment."

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent that these two amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, the purpose of these amendments is to make absolutely certain that no coal mine wastes be constituted as part of the dam itself. The committee in its wisdom has given the Corps of Engineers authority to set up standards for these coal waste dams, and this provision simply assures that coal mine wastes such as caused the Buffalo Creek tragedy may not be used in a coal mine waste dam itself.

Everyone in West Virginia and many people throughout the Nation recall that on February 26, 1972, a coal waste dam on Buffalo Creek, W. Va., collapsed, sending a 30-foot wall of water down a 17-mile valley; 125 wonderful West Virginians were killed, and 4,000 people were rendered homeless. I certainly hope that we will do everything possible to avoid a repetition of the Buffalo Creek disaster. I strongly urge support for my amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am not sure the amendment is necessary because the Corps of Engineers does not permit the use of these materials in construction of dams in any event, but the presence of these additional words will certainly not do any damage and certainly will confirm an existing practice.

To save time I am willing to accept the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from West Virginia.

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to section 515?

AMENDMENT OFFERED BY MR. GUDE

Mr. GUDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUDE: Page 256, line 12, strike subsection (14) inclusive and insert in lieu thereof the following subsection:

"(14) segregate all acid-forming materials, toxic materials, and materials constituting a fire hazard and promptly bury, cover, compact and isolate such materials during the mining and reclamation process to prevent contact with ground water systems and to prevent leaching and pollution of surface or subsurface waters;"

Mr. GUDE. Mr. Chairman, subsection 14 provides for the burying or isolation of acid-forming materials and materials that constitute a fire hazard. The amendment I am offering improves the language. It provides for immediate burial.

One of the major aspects of the environmental problems presented by strip mining is the question of acid mine drainage and its toxic effects on water. The problem of acid drainage and leaching of toxic materials continues to be the major problem in reclamation in the Midwest and parts of Appalachia. In the western portion of my own State of Maryland, acid drainage from areas stripped 30 years ago continues to kill all the fish and other aquatic life in the Potomac River in that area.

In the West, the problem is sodic or saline drainage rather than acid drainage. It is an equally serious problem.

Numerous studies have clearly demonstrated that the best way to reduce acid and other types of toxic drainage is through burial and compaction. In the Appalachian Regional Commission studies of the problem in eastern Kentucky, they concluded that:

Further reductions in chemical pollution are possible by means of . . . more rapid burial of acid overburden materials . . . deeper burial of acid materials . . . and compaction of backfilled and graded spoil.

I think this language is an improvement. I ask for the adoption of the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this language was in last year's bill. We took it out because we felt that the standards would require the operators to make sure the toxic materials were covered in any event. It is one of those amendments that I do not consider necessary but it certainly does not do any harm. If the committee wants to adopt it, it would not do any damage to the bill.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I appreciate the gentleman yielding and I am perhaps taking advantage of the gentleman, but one reason why we did take that out of the bill was we learned that all biological material is acid forming. It forms amino acids or harmless acids, but it is acid forming. If we adopt this in the law, then anybody who does not bury or cover what would not be deleterious acid-forming material would be in violation of the law.

If the gentleman will note, in section 14 we say:

. . . all debris, acid-forming materials, toxic materials, . . .

In other words, we use the same definition and say that it shall be—

disposed of in a manner designed to prevent contamination of ground or surface waters . . .

I will tell the gentleman the problem with the bill in many sections is that we not only provide a goal as we did in the existing language but also we tried to tell them how. This amendment tells them how. When we commit this kind of regulation to law we unintentionally do great harm because we place a legal impediment or requirement on the person who is very conceivably not intentionally violating the spirit of the situation but because he is not able to promptly bury or cover or compact or isolate the material, even if it were not necessary for safety. The existing language requires the operator to insure against the very thing the gentleman is concerned about and allows the operator to do it in such a manner as would conform to his particular geographic area.

So I will tell my friend that I hope his amendment is defeated because the existing language in the bill accomplishes what the gentleman wants, and his language is going to add only to the problems of the operator.

Mr. GUDE. Mr. Chairman, I think if the gentleman reads the amendment, the language does say "promptly bury, cover, compact and isolate" and so on, so as to "prevent contact with ground water systems and to prevent leaching and pollution of surface or subsurface waters;".

If immediate burial were not necessary to prevent pollution and the officials so specified, then it would not be essential under this language.

Mr. Chairman, I ask for adoption of the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Maryland (Mr. GUDE).

The question was taken; and on a division (demanded by Mr. RUPPE) there were—ayes 21, noes 16.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 515?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 263, line 15, after the word "cut", strike all through the word "met" on line 22, inclusive.

Mr. HECHLER of West Virginia. Mr. Chairman, this is really a technical perfecting amendment which prevents dumping the spoil downslope on the initial cut temporarily. I think the allowance of the dumping of the spoil downslope from the initial cut temporarily is a loophole which, if removed, would strengthen this bill considerably.

My amendment is designed to eliminate a very serious loophole. Throughout the markup sessions and in its report, the committee has repeatedly emphasized the importance of reclamation standards which prohibit the dumping of spoil on the downslope in steep areas. A 1973 Senate Interior study spells out why even graded spoil on the downslope is a major environmental hazard:

In 1970, Kentucky required some operators, on a demonstration basis, to purposedly spread out the overburden pushed downslope in order to prevent landslides. Such methods, however, are subject to massive sheet and gully erosion and slumping, especially in the high rainfall areas such as the Appalachian region, and, in effect reduce neither the amount of environmental damage nor the number of operator violations.

Yet H.R. 25 contains language which compromises the effectiveness of the prohibition on downslope dumping by allowing the temporary dumping of the "initial cut." "Initial cut" is nowhere defined in the bill, though the report does attempt to limit its applicability. However, as several committee members pointed out during markup sessions, the language as drafted in H.R. 25 could easily be interpreted as allowing dumping of first cuts all along the coal seam—in effect, allowing dumping of spoil much as is done in parts of Appalachia today.

My amendment would close off this loophole of flatly prohibiting all dumping of spoil on the downslope, irregardless. This would not prohibit mountain mining—rather it would require the operator to truck the first cut material to a nearby flat area to store it until it is needed in reclamation. Last year's House committee report cites the feasibility of this approach:

At the present time in West Virginia the material from the first cut is set aside—usually on an old strip bench—on nearby or adjacent lands.

Further support for the necessity of cutting off this loophole comes from a recent study done by Mathematica, Inc. for the Appalachian Regional Commission. The study, entitled "Design of Surface Mining Systems in Eastern Kentucky," examined the continuing problems of landslides, sedimentation and water pollution in eastern Kentucky and drew several conclusion which relate to my amendment. Kentucky law allows the dumping of the first cut and then prohibits subsequent dumping. Mathematica concluded that this was inadequate protection and that "in practice, violations of these regulations have occurred fairly frequently in recent years." Mathematica pointed out that:

Another possible source of landslides is the reputed tendency of some miners to overload the fill benches resulting from first cuts, by stacking excessive spoil on the outer one-third of the fill bench.

The study concluded that:

The surest way to prevent landslides is probably the last one mentioned above—the use of "no fill bench" methods (no first cut dumping) . . . such methods are roughly comparable in profitability to existing conventional contour methods, and can be practiced using existing equipment.

As you can see from this study, my amendment would insure that the most environmentally sound yet economical reclamation techniques would be used in mountain mining. It would not necessitate the banning of mountain mining, yet it would reduce to a major degree the single most damaging feature of mountain strip mining—landslides.

Mr. STEIGER of Arizona. Mr. Chairman, I appreciate the desire of the Chair to get this over with, but I would like to rise in opposition to the amendment.

This again is one of those attempts, by striking the very specific exemption, the gentleman is again attempting to make an absolute which would compound the operator's problems. I understand the gentleman's desire, but what he is striking is the necessity in some operations to temporarily leave some earth in a different position. It is very specific. It says it is only a temporary position. It must be limited. It is in there for a very real purpose.

Now, we are making it difficult enough for these people to mine. By striking this, it is going to be even that much more difficult. What the gentleman is striking is the designating of temporarily placing it in a limited specified area. That is about as narrow a violation that could be construed by anybody.

I hope again, while I realize the House may not understand what is happening, we ought to at least give the committee credit for working its will in this particular language.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment if that is, indeed, still a sentence with the deletion of the lines from 17 to 22? It seems to me we have actually cut off the sentence in midair, so to speak.

Mr. HECHLER of West Virginia. Mr. Chairman, is the gentleman addressing the question to me?

Mr. RUPPE. Yes. It says, "necessary soil or spoil material from the initial block."

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield further?

Mr. RUPPE. Yes.

Mr. HECHLER of West Virginia. I would advise the gentleman that if he feels it would be preferable and improve the wording by putting a period right after the word "cut", I would consider that suggestion.

Mr. RUPPE. Line 15, "where necessary soil or spoil material from the initial

block"—and the gentleman leaves it off there.

Mr. HECHLER of West Virginia. I would remind the gentleman that the amendment is on line 15. The gentleman is reading from line 17.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, the amendment as offered by the gentleman from West Virginia places a comma after the word "cut" appearing on line 15, thereby eliminating the entire proviso which we worked out in committee permitting one cut to be put over the slope, which in the recent markup was further amended to provide that this placement of the first cut is only temporary and that it must be subsequently removed.

I supposed that an optimum situation would be that we would never permit any spoil over the slope, but I think that the bill as drafted by the committee contains a reasonable compromise. It permits access into a hill by allowing the spoil of the first cut on the downslope.

So, I would hope that this amendment would not be accepted and the committee bill would be retained.

Mr. RUPPE. Mr. Chairman, I would agree with the gentlewoman. It seems to me that we have said very carefully in the legislation that there is not to be any spoil on the downslope. However, we did provide, because of the block cut method which will be employed, that the spoil from the first cut under the block cut method could be temporarily placed on the downside or slope if it would not create a hazardous condition.

This amendment would substantially increase the cost of mining. We do provide legislation in which the first cut on the downside would be only temporary, and were that practice to be precluded, it would make mining much more difficult and costly.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, we cannot legislate against landslides which occur when that material and spoil is placed downslope, point No. 1.

The reason the comma is preserved rather than putting a period there is because we pick up on line 22 the proviso: *"Provided,* That spoil material in excess of that required—" and so forth, is left in to complete the sentence. That is the reason for the comma rather the period.

I simply observe that many, many landslides occur as a result of placing spoil from the initial cut, even temporarily, downslope. That is the purpose of the amendment.

Mr. RUPPE. Mr. Chairman, I would like to point out that I understand the gentleman's concern, but the bill language specifically states that first cuts placed on the downside would have to be placed in such a manner that the material would not slide, and all the other provisions of the bill would be taken care of because we do indicate very clearly even in that single instance, the first cut, the spoil material from the slide would have to be placed in such a way that there would be no sliding of the material and no danger.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Iowa.

Mr. BLOUIN. Could the gentleman point to the section of this bill where "temporary" is defined? It seems to me the crux of the question revolves around how long that material is going to lay there before it is moved.

Mr. RUPPE. True, but remember that when the mine is planned and in preparation, the mining plan has to be approved by the regulatory authorities, and there is provision for citizen intervention and for citizen participation. Any question as to how the plan would be developed and the timing of it would be checked very carefully by the regulatory authority and, second, would be open for review by any citizen or citizen group which would question the practice.

Mr. BLOUIN. I have two points to make. One of the major objections to this kind of legislation generally comes to those who work within it because of the constantly changing standards they have to undergo. No. 2, it also seems to me to be very expensive to delay an entire project for a citizen to be affected to refer to it, and it is too expensive not to set the guidelines at the beginning.

Mr. RUPPE. I would point out that the block cut standards mandated under this legislation are going to be a difficult and costly mining process, yet we did feel, because of the pressure we have exerted for the utilization of this mining process, we should permit spoil on the downside on the first cut.

It is a very difficult process to handle, and there is a question of how we will handle spoil on the downslide, if we do not provide for an alternative in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The question was taken; and on a division (demanded by Mr. HECHLER of West Virginia), there were—ayes 8, noes 31.

So the amendment was rejected.

The CHAIRMAN. Are there any further amendments to section 515?

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 211, line 21, strike after the word "every" the following: "three months" and insert in lieu thereof the following: "month".

POINT OF ORDER

Mr. STEIGER of Arizona. Mr. Chairman, a point of order. We are on section 516 and 515. This attempts to amend section 502. It is in violation of procedure.

Mr. SEIBERLING. Mr. Chairman, I ask unanimous consent that, although we have passed that point in title V, I be permitted to offer this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. STEIGER of Arizona. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 273, between lines 8 and 9, insert the following new subsection:

"(g) no employee of the state regulatory authority performing any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operation, except that an employee may own a total of not more than one hundred shares of stock of companies which have a direct or indirect interest in such operations and which are listed in any securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Act of June 6, 1934 (48 Stat. 885; 15 U.S.C., 78f); provided that such employee shall file with the state regulatory authority a written statement concerning such ownership which shall be available to the public. 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 of not more than one year, or by both. The Secretary shall (1) within sixty days after enactment of this Act, publish in the Federal Register, in accordance with 5 U.S.C. 553, regulations to establish methods by which the provisions of this subsection will be monitored and enforced by the Secretary and such state regulatory authority, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection, and (2) report to the Congress on March 1 of each calendar year on actions taken and not taken during the preceding year under this subsection."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that further reading of this amendment be dispensed with since it is printed in the RECORD and available at everyone's desk, and also since it conforms with the Dingell amendment passed on Friday.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment would apply the same conflict of interest regulations to the employees of State regulatory agencies and authorities as were included under the Dingell amendment as applied to Federal regulatory officials. Since the Dingell amendment was adopted, my amendment will insure that appropriate and conforming conflict of interest regulations apply equitably.

Mr. Chairman, I now gladly yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I think this is a correct amendment and will conform to the amendments we agreed to earlier. I would hope the committee would accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 239, line 22, insert a new paragraph (6) as follows:

"(6) the blasting and excavation practices permitted in connection with any proposed surface coal mining operation not in existence on the date of enactment of this Act will not render unsafe or impractical the subsequent extraction of known deposits of coal recoverable by current deep mining technology beneath the area affected by the proposed surface coal mining operation."

PARLIAMENTARY INQUIRY

Mr. RUPPE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RUPPE. Mr. Chairman, is this amendment to the sections under consideration today, or is it covering a section that we were taking up yesterday?

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, this amendment covers a section which is one of the sections in title V, and it was agreed yesterday that title V was open to amendment at any point.

The CHAIRMAN. The Chair will state that the amendment is to section 510, and the bill is open for amendment at any point from section 509 to the end of title V.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, this amendment is offered to remedy a very serious oversight in this bill. The staff, I believe, concedes that it was an oversight.

We are in the situation that approximately 97 percent of the Nation's coal reserves are minable only by deep mine methods and only 3 percent minable by strip mine methods. It has been estimated that if we stopped deep mining coal entirely and went exclusively to strip mining, we would use up all the strippable coal by the end of this century.

There are places where strippable coal is located above seams of coal that can only be recovered by deep mining methods.

Mr. Chairman, the purpose of this amendment is to make it clear that if stripping above known deposits of deep minable coal would make it impossible to mine that deep coal thereafter, the stripping could not take place until and unless the deep minable coal is extracted.

There may be cases where, because of the type of rock structures and the closeness of strippable areas to the deep minable seams, strip mine blasting could fracture the rock and make subsequent deep mining practically impossible because of the inability of the fractured rock strata to provide adequate roof support for tunnels and working faces of the deep mine.

The proposed amendment would meet this situation by requiring the regulatory authority to find that the coal surface mining operation would not have such an effect on known deposits—and I emphasize the words, "known deposits"—of recoverable deep minable coal located below the proposed strip mine. The amendment is prospective only and would not affect already existing strip mines.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this section is not effective for 2 years. I personally have not had a chance to study the impact of this.

The goal the gentleman seeks is one we could all support. His goal is that in present stripmining operations we would not make it impossible to mine large deposits that must be mined by underground methods.

I think in fairness to the industry, before the conference takes up this provision, we ought to analyze it and find out whether it poses any problems we have not thought about and whether it interferes with coal production.

Mr. Chairman, I would be inclined to accept the amendment on that basis.

Mr. SEIBERLING. Mr. Chairman, I would accept the gentleman's position. I understand that the gentleman would request the Interior Department to give us an opinion, and that if they come up with problems that were not foreseen, I would support modifying or striking the amendment out in conference.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, my problem with the amendment would be this:

Suppose we have an area that is being strip mined and all of a sudden the mining process would come to a point underneath which underground surface mining operations could be commenced to be developed at a later time. Are we to suggest that the entire strip mining operation come to a halt because at some point beneath the present operation there is an underground coal seam that could be mined at some future date?

First of all, under the language of the amendment we might preclude the mining of a million or 5 million tons of surface coal simply because there may be 5,000 or 50,000 tons of underground recoverable coal beneath the surface-mined areas.

It seems to me that what we are saying is that we will stop any mining process if underneath that surface-mined area there is any size coal deposit at all that could be removed by underground mining methods. It seems to me at that juncture that we would perhaps stop the production of a 1-million ton operation or a 5-million ton operation simply because as little as 5,000 or 50,000 tons of underground recoverable coal may be beneath the area that is presently being mined.

Mr. Chairman, that would be an inefficient and wasteful process, to bring a surface-mining operation to a dead halt simply because underneath the operation there was a given amount of coal that could be mined by some other method.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman's point is well taken.

First of all, let me say that this amendment would affect only new mines. Therefore, if we had a strip mine that was partly over deep minable coal and partly not, when the stripping reaches the point where mining would be above deep-minable coal, then the regulatory authority would have to put some restrictions on the use of explosives or by some other means prevent the destruction of that deep-mined coal.

The other point I think is also well taken in that there should be a balancing, so that stripping of a very large deposit of coal would not be prohibited above a deep minable seam containing only a very small amount of recoverable coal.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, I would be perfectly willing to sit down with the gentleman in conference and work out some refined language based on the evaluation of this by the Interior Department, but I think we do need to have this type of provision in this bill before it goes to conference. Otherwise, we will not be in a position to meet the important problem to which this amendment is directed.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, I have a suggestion. If the gentleman added the words "and if of greater economic value" to his amendment, it would answer the questions that have been raised on both sides as to whether we want a restriction of this kind for a very small deposit of coal that might exist and that could only be recovered by underground techniques.

Mr. SEIBERLING. To answer the gentlewoman, I would rather not make that type of amendment, for the simple reason that the deep coal still might be of great economic value. If one had a 50-foot seam of strippable coal on top of a 30-foot seam of deep minable coal, the deep minable coal would still have great economic value and it would be a waste of valuable natural resources to make it impossible to get that deep minable coal out.

I would think that there ought to be a finding by the regulatory authority that the size of the deep minable coal seam is of too little consequence to justify deep mining. I would go along that that, but I suggest that we handle that in conference and simply get this amendment in the bill now so that we can deal with it in conference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 16, noes 15.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: Page 204, line 21, strike the words "boundaries of

any national forest" and insert the following: "the National Forest System".

(Mr. BLOUIN asked and was given permission to revise and extend his remarks.)

Mr. BLOUIN. Mr. Chairman, this amendment speaks to the question of whether or not the national grasslands are going to be continued to be preserved and rejuvenated.

I think we are talking about a subject that goes back quite a few years, and maybe it is worth at least a moment or two to try to refresh the memories of the Members about what this whole concept is all about.

Some of the Members may remember that as a result of the droughts of the 1930's and the erosion and depletion of some precious soil deposits that resulted from those thoughts, literally millions of acres of agricultural land were destroyed and rendered, frankly, rather useless. Thousands of American families—farmers and ranchers—saw their life's works and dreams and desires literally disappear with no apparent avenue of hope left.

The Congress in those days responded to that crisis with a program of restoration, preservation, and relocation and, unlike so many programs that have been passed by this body since then, this one, strangely enough, worked.

The 3,822,000 acres of our time, our money, and our hopes for our people for over 40 years have gone into this program of reclamation and restoration and recycling of land resources.

Now, really when we are literally on the brink of completing our waiting for recycling of this land, to bring it back to a usable level, and in many instances already having accomplished this goal, we find ourselves in an effort on the part of some to literally rip the top off that soil and put back four decades of work into the back pages of history somewhere, of eliminating the concern and care of that land that has taken so long to restore, land that, whether you know it or not, is presently being used for grazing by thousands of cattle and sheep belonging to farmers and ranchers in these regions—land that is presently being used as a wildlife habitat for thousands of antelope, deer, quail, pheasant, and other wild game—land that is presently being used and enjoyed by hundreds of thousands of hunters, fishermen, campers, and picnickers from all over this country annually—and land that is presently being used to demonstrate the practicability of grassland management and development needed to keep unstable soils in place, and covered with grass.

Mr. Chairman, in my opinion now is not the time to regress from 40 years of conservation management for the sake of exploiting what really amounts to less than one-half of 1 percent of the total coal reserves in this country.

Now is the time to show that we are concerned about the need to preserve this land, and to protect those 3.8 million acres of usable land for people with a long-term benefit instead of a short-term, one-shot benefit of an undetermined amount of so-called need of energy.

Our amendment makes every effort to speak to this concern. Its passage in my opinion would allow the fulfillment of the goals of title III of the Bankhead-Jones Tenant-Farmers Act of 1937.

That is how long this Congress has been helping that program. That is how long those people in those parts of this country have been waiting for that land to be returned to a usable state. All our amendment does is insure that that will continue.

I ask for the support of the Members of this amendment, and urge its passage.

AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. DINGELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL as a substitute for the aemndment offered by Mr. BLOUIN: On page 294, line 10, strike "Subject to valid existing rights no" and insert therein the word "No"; and

2. On page 294, strike all on line 21 through the semicolon on line 23, and insert therein the following:

"(2) on any lands within the boundaries of national forests or national grasslands: *Provided*, that the prohibition in this subsection shall not prevent (A) such mining within any of these lands where the deeds conveying the surface lands to the United States reserved the coal and specifically provide for the surface mining thereof, or (B) the surface operations and impacts incident to an underground coal mine: *Provided*, further that in no event shall such mining operations be exempt from the requirements of this Act;".

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I want to commend my colleague, the gentleman from Iowa (Mr. BLOUIN) for offering an excellent amendment. I do not want my colleagues to think that my offering of this amendment in any way takes away my support of the amendment which is offered by our able colleague, the gentleman from Iowa.

It is an attempt simply to add further perfections in a fashion which would least utilize the time of the House of Representatives. Everything that my friend and colleague, the gentleman from Iowa, has said in substantive support of his amendment would apply to the amendment which I offer.

My amendment was printed in the CONGRESSIONAL RECORD on March 13, 1975, beginning at page H1723, pursuant to rule XXIII, clause 6.

The amendment which I offer is very little different, as I have indicated, from that offered by the gentleman from Iowa, and very little different from that which I offered during the considerartion of this legislation during the previous Congress. The amendment that I offer as a substitute for that offered by my friend, the gentleman from Iowa, does the following:

One, it prohibits all surface coal mining in areas of national parks, national wildlife refuge systems, and wilderness systems. It again prohibits surface coal mining in the National Forest and Wild and Scenic River Systems except where such mining exists on the date of enactment and except where the deeds, conveying lands to the United States reserved the coal and permitted such mining, with the added proviso that such mining would be subject to the regulatory requirements of the bill.

The conferees during the previous Congress rewrote this section to permit the continuance of existing mining operations in national parks, national wildlife refuges and wilderness systems, and to permit all mining based on "valid existing rights." That clause is a puzzling one. It appears to cloud the matter. It is my understanding that the committee wants to prohibit mining in these areas. But what does the provision mean? I think it is extra verbiage and really has no meaning.

The amendment now before us adds really only one thing to that offered by my friend, the gentleman from Iowa. It continues the prohibition against surface mining in the areas listed, first, national parks, wildlife refuges, and wilderness systems, and also the other parts of the national forest; and second, our scenic river systems and the grasslands.

But it again prevents the surface mining from taking place pursuant to the so-called preexisting rights of which we are not informed, and which may very well authorize a kind of mining in a degree and amount and in places where this body is not prepared to accept it, or where on the basis of sober understanding I think the people of this Nation would not want to have that take place.

The bill before us contains the conference approach of last year, and it appears to permit coal mining in places where in my view surface coal mining should not be tolerated; namely, the national grasslands, and for that reason I would urge the adoption either of the substitute which I offer to that offered by my friend, the gentleman from Iowa, or at least the amendment offered by my friend, the gentleman from Iowa.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

This amendment, then, would extend the prohibition of surface mining to grasslands and to those private lands within the boundaries of any unit of the National Forest System; am I correct?

Mr. DINGELL. I have other amendments which will reach 300 yards out of sight of existing areas of the National Forest System which I will later cover.

Mr. RUPPE. If the gentleman will yield further, this amendment does cover private lands. It says:

On any lands within the boundaries of national forests or national grasslands . . . .

Mr. DINGELL. The gentleman from Michigan is correct and I regret I gave an erroneous impression. I would note, however, that I simply followed the language of the bill.

AMENDMENT OFFERED BY MR. M'KAY TO THE AMENDMENT OFFERED BY MR. DINGELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BLOUIN

Mr. McKAY. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McKAY to the amendment offered by Mr. DINGELL as a substitute for the amendment offered by Mr. BLOUIN: After (2) delete "on any lands within the boundaries of national forest or national grasslands:" and insert in lieu thereof the followinng: "on any Federal lands within the boundaries of any national forest east of the one-hundredth meridian or on any lands within the boundaries of any national forest which, one the date of the enactment of this Act, are managed and utilized primarily for outdoor recreation or for sustained yield timber production:".

(Mr. McKAY asked and was given permission to revise and extend his remarks.)

Mr. McKAY. Mr. Chairman, the purpose of this amendment is in fact to allow in certain areas of the national forest some mining. I agree with the Strip Mining Act that we need to make some regulation, we need to tighten it down, and we need to reclaim, and we need to manage, and we need to do all these things. The effect of this amendment would allow and require all that.

Let me indicate some things. I am concerned about the total prohibition on surface mining in the national forest areas. I recognize the need for special protection in the national forests. I would hate to see the stripping of land covered with beautiful aspen or alpine forest. On the other hand, npt all forestland is important scenic, recreational, or timber land.

I would like to indicate, if any of the Members are interested, a picture of some of the national forest land where there is not a stick of timber and there are not grasslands. They do have some coal under the surface and we should be able to use it. We should be able to use the coal under this land in these areas, which could be under the rules and regulations of this bill be refurbished and in some locations it could be left in a conditon better than it is now. Therefore, I think we ought not totally to exclude it.

I think it is unwise to completely preclude the possiblity of surface mining where important environmental values are not a consideration—and, I underline, are not compromised.

The proposed amendment provides careful protection for all the important forest values. Surface coal mining is prohibited where the present use or value of the area to be mined is primarily related to timber or recreational use as the effective date of this act.

In addition, the areas could be designated as unsuitable for mining where there would be significant damage to the environmental values or the national system under this.

Also, the strict regulations would apply to limited areas where mining might be allowed.

So we are providing all the rules and regulations.

There are about 7 billion tons of known coal reserves on the national forest lands. Some of these lands really should not be surface mined, because of the recreational, timber, or scenic values which should be protected. But this should not mean that all the forest land should be precluded from being mined. Our national energy demands mean that this should not be locked up where the important environmental values would not be compromised by the surface mining. This amendment provides the needed protection for our national forest without a total prohibition.

It should be understood that all the national forest is not all forests. Half the national forest land is range land and some forest land is of real scenic value and some has timber value.

In our western part of the country over the years many people have participated in getting the Forest Service to buy out—or the local communities have bought up—certain lands for the Forest Service to administer because those lands were being ill administered, and the lands have been brought back to a better ecological state than they were before. I think that ought to continue. For example, in an area called the Fish Lake area in Utah, there are some 1,500 acres which contain 15 million tons of low sulfur coal. There is no vegetation except for sagebrush, the area is dry, and there is in some areas a few pinions and junipers. There is no significant wildlife. In this type of land I think we need to make the opportunity available to mine the coal.

One other thing this amendment does is that it precludes mining in all areas east of the 100th meridian, which is roughly down the middle of North and South Dakota, Kansas, Oklahoma, and so on, so this does not open up the forest lands east of that parallel. This applies only to the western section of the country.

I would urge my colleagues to support the amendment.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the three amendments by my friends, the gentleman from Utah (Mr. McKAY), by the gentleman from Iowa (Mr. BLOUIN), and by the gentleman from Michigan (Mr. DINGELL), all seek to upset the very finely tuned compromise that it took us months and months to work out. In the bill that emerged last month and in the bill today we have a flat prohibition against coal surface mining in all the U.S. National Park System, the National Scenic River System, the National System of Trails, and we also include the national forests in the Blouin amendment, which would seek to exclude mining in national grasslands, which in the committee bill is permitted.

The national grasslands are some special lands really in several Western States including Wyoming which were taken in very bad condition in the 1930's and were rejuvenated.

There are very tough environmental standards in the bill if we do mine the grasslands.

I would remind my colleagues that yesterday we adopted the amendment of the gentleman from Colorado (Mr. EVANS) to fully protect the alluvial areas, to ban mining on them, so we have a very good protection and balance in the bill.

My friend, the gentleman from Utah (Mr. McKAY) makes a good point that there are areas in his territory that are not really forests. They are sage and open land and so on. If we are going to permit anything, I would prefer we should keep this, but the wisest thing to do is to defeat all the amendments and permit this compromise to stand.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will allay some of the fears of the Members and I will only take a minute or 2 to respond to my good friend, the gentleman from Utah (Mr. McKAY) on the type of land he is talking about and the possibility of mining it.

I asked the Bureau of Land Management in Montana, which administers 8 million acres of Federal lands in Montana how much of the BLM land would be mined in Montana in the next 10 years and they told me it would be 5,000 acres. Due to the preponderance of BLM land in the area of Montana lying over the Fort Union coal deposit, this would probably mean that during the next 10 years, if BLM estimates are correct, we are only going to mine about 15,000 acres of land in Montana including private and State lands. There are no applications and never have been applications for lease for coal mining in the national forests so there is no urgency to allow mining in national forests.

Much of those lands in the West which overlie the huge Fort Union coal deposit are administered by the Bureau of Land Management.

The need for mining federally owned coal can easily be met on those lands.

We have no need to open up the Custer National Forest or other national forests, but I do want to say to my good friend, the gentleman from Utah, that he is absolutely correct. The type of land he is describing, and which I have viewed myself in Utah, is not what we would envision as logically belonging in a national forest. Why it was put in a national forest is a mistake of this country.

I would say what is proper is a restructuring of who manages what. I do not think the national forest system per se is so sacred that the boundaries have to remain as they are when they do not really include lands that meet the criteria of forest lands.

I know there are national forests that have different types of land; but I think the gentleman from Utah is absolutely correct when he said that the type of land he is describing better fits the type of land we would find administered by the Bureau of Land Management, rather than be included in a national forest.

I would say a better solution to the problem is a restructuring or putting lands under the proper Federal management where they fit, rather than leaving them in the boundaries we now have, which do include much land in national forests which are very similar to Federal

lands managed by the Bureau of Land Management.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, as the gentleman knows, I would be willing if the Congress would tighten it down to eliminate Custer National Forest. I would suppose that you could handle that in conference and I would not have any objection to that.

As the gentleman knows, the Forest Service and the Bureau of Land Management administers lands of very similar nature. The Bureau of Land Management, I agree, has more of the range management mineral lands than the Forest Service, but they each have quantities of it and each administer jurisdiction of timber sales and all of the other types of lands. If we could sort out all of those—which I do not expect we are going to do—then I would agree with the gentleman, but we are not really going to do that and make this a purely environmental and strictly timber area in the national forest.

So, this is the only alternative we have, to leave those areas out, and I believe they should.

I think there are sufficient safeguards within the bill in every other section to mandate and give guides for the judgment of the agencies, and if they follow the guidelines already set, I see no danger of destroying the resource.

Mr. MELCHER. I wish the proposed language in the gentleman's amendment would clearly delineate what we are attempting to do, but I am afraid that simply stating that a national forest used primarily for timber or recreational purposes, would not be strip mined is inadequate. There simply is not an adequate guideline for Congress to establish what national forests would not be strip mined for coal.

I am afraid, under the cirmumstances, I will have to stick with the language in the bill and oppose the amendment.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(On request of Mr. SEIBERLING and by unanimous consent Mr. MELCHER was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would just like to clarify a point in the amendment of the gentleman from Utah. I understand land in the Custer National Forest, which is in your State of Montana, is used for both timber and for grazing purposes, is that correct?

Mr. MELCHER. Custer National Forest is administered under the multiple-use concept. It is used for grazing, for some timber production, for recreation; all the usual multiple uses.

Mr. SEIBERLING. The same land is used for both purposes in many areas, is that correct? In other words, there is timber on it, and also it is used for grazing land?

Mr. MELCHER. The gentleman from Utah has offered an amendment that would clearly indicate that the Custer National Forest would be open to strip mining for coal.

Mr. SEIBERLING. That is the point I wanted to clarify.

Mr. MELCHER. I might point out to the Members of the Committee that the language that is in the bill says that there can be no coal strip mining on any Federal land within the boundaries of a national forest—which of course does permit mining on private land within the national forest and we do have some private land in Custer National Forest—so there could be some mining on private lands, but under the committee bill there would be a ban on all Federal land in the national forest.

Mr. WIRTH. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that he will vacate proceedings under the call when a quorum of the committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to the provisions of clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

Mr. SYMMS. Mr. Chairman, I take this time to ask the gentleman from Utah (Mr. McKAY) whether he can explain to us just a little about what kind of land it is we are talking about.

I have some information about one place in North Dakota that does not happen to come under the national forest system, but which supports five cows grazing over 5 million tons of coal, and I was wondering whether the gentleman from Utah has some similar land that might become available to mine or whether he could give us that information.

The land I refer to has five cows grazing over 5 million tons of coal, and we are saying we cannot mine it. I wonder whether this is the same kind of land as is the case down in Utah.

Mr. McKAY. If the gentleman will yield, I would say that we might take care of six or seven cows in that same area.

Mr. SYMMS. Does the gentleman mean cows that must move from grass clump to grass clump at 30 miles an hour to keep from starving to death?

Mr. McKAY. I have some pictures showing the character of the land I am talking about, which really is mineable, but at the present time it is not usable for much of anything. In some of these cases, if it were stripped and required to be put back, it would then present a better soil condition, one in which the environment could be improved for grazing and other uses.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much. I am in strong support for the gentleman's amendment. I think this would be one of the few chances we would have to improve the legislation, and I hope the amendment is accepted, as it will make this legislation slightly less obnoxious.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKAY) to the amendment offered by the gentleman from Michigan (Mr. DINGELL), as a substitute for the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The question was taken; and on a division (demanded by Mr. McKAY) there were—ayes 22, noes 32.

So the amendment to the amendment, offered as a substitute for the amendment, was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL), as a substitute for the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The question was taken; and on a division (demanded by Mr. HECHLER of West Virginia) there were—ayes 12, noes 35.

So the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The question was taken; and on a division (demanded by Mr. BLOUIN) there were—ayes 20, noes 36.

RECORDED VOTE

Mr. BLOUIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 248, not voting 16, as follows:

[Roll No. 59]

AYES—168

Abzug	Coughlin	Hayes, Ind.
Addabbo	Delaney	Hechler, W. Va.
Ambro	Dellums	Heckler, Mass.
Anderson, Calif.	Diggs	Heinz
Ashley	Dingell	Holtzman
Aspin	Dodd	Howard
Badillo	Downey	Hubbard
Bafalis	Drinan	Hughes
Baldus	du Pont	Jacobs
Baucus	Early	Johnson, Colo.
Beard, R.I.	Edgar	Karth
Bedell	Edwards, Calif.	Keys
Bennett	Emery	Koch
Biaggi	English	Krebs
Biester	Evans, Ind.	Latta
Blanchard	Fascell	Leggett
Blouin	Findley	Lehman
Bonker	Fish	Levitas
Brademas	Fithian	Lloyd, Calif.
Breckinridge	Florio	Long, Md.
Brodhead	Ford, Mich.	McCloskey
Brown, Calif.	Fraser	McDade
Burke, Calif.	Frenzel	McHugh
Burke, Fla.	Gaydos	Macdonald
Burton, John L.	Gilman	Maguire
Burton, Phillip	Green	Matsunaga
Carr	Gude	Metcalfe
Chisholm	Hall	Mezvinsky
Clay	Hannaford	Mikva
Cohen	Harkin	Miller, Calif.
Conte	Harrington	Miller, Ohio
Conyers	Harris	Mineta
Cornell	Hawkins	Minish

Moakley	Reuss	Spence
Moffett	Richmond	Stanton,
Moorhead,	Riegle	James V.
Calif.	Rinaldo	Stark
Mosher	Rodino	Steed
Moss	Roe	Stokes
Mottl	Rogers	Stratton
Murphy, Ill.	Rooney	Studds
Myers, Pa.	Rosenthal	Symington
Natcher	Rostenkowski	Thompson
Neal	Roush	Traxler
Nedzi	Roybal	Tsongas
Nix	Russo	Van Deerlin
Nolan	Ryan	Vander Veen
Oberstar	Sarbanes	Vanik
Ottinger	Scheuer	Vigorito
Patterson, Calif.	Schroeder	Whalen
Pattison, N.Y.	Sharp	Wirth
Perkins	Shipley	Wolff
Peyser	Simon	Yates
Pike	Smith, Iowa	Young, Fla.
Price	Solarz	Young, Ga.
Rangel	Spellman	Zeferetti

NOES—248

Abdnor	Foley	Meeds
Adams	Ford, Tenn.	Melcher
Anderson, Ill.	Forsythe	Meyner
Andrews, N.C.	Fountain	Milford
Andrews,	Frey	Mink
N. Dak.	Fulton	Mitchell, N.Y.
Annunzio	Fuqua	Mollohan
Archer	Gialmo	Montgomery
Armstrong	Gibbons	Moore
Ashbrook	Ginn	Moorhead, Pa.
AuCoin	Gonzalez	Morgan
Barrett	Goodling	Murphy, N.Y.
Bauman	Gradison	Murtha
Beard, Tenn.	Grassley	Myers, Ind.
Bell	Guyer	Nichols
Bergland	Hagedorn	Nowak
Bevill	Haley	Obey
Bingham	Hamilton	O'Brien
Boggs	Hammer-	O'Hara
Boland	schmidt	O'Neill
Bolling	Hanley	Passman
Bowen	Hansen	Patman
Breaux	Harsha	Patten
Brinkley	Hays, Ohio	Pepper
Brooks	Hefner	Pickle
Broomfield	Helstoski	Poage
Brown, Mich.	Henderson	Pressler
Brown, Ohio	Hicks	Preyer
Broyhill	Hightower	Pritchard
Buchanan	Hillis	Quie
Burgener	Hinshaw	Quillen
Burke, Mass.	Holland	Railsback
Burleson, Tex.	Holt	Randall
Burlison, Mo.	Horton	Rees
Butler	Howe	Regula
Byron	Hungate	Rhodes
Carney	Hutchinson	Roberts
Carter	Hyde	Robinson
Casey	Ichord	Roncalio
Chappell	Jarman	Rose
Clancy	Jeffords	Rousselot
Clausen,	Jenrette	Runnels
Don H.	Johnson, Calif.	Ruppe
Clawson, Del	Johnson, Pa.	St Germain
Cleveland	Jones, Ala.	Santini
Cochran	Jones, N.C.	Sarasin
Collins, Tex.	Jones, Okla.	Satterfield
Conable	Jones, Tenn.	Schneebeli
Conlan	Jordan	Schulze
Corman	Kasten	Sebelius
Cotter	Kastenmeier	Selberling
Crane	Kazen	Shriver
D'Amours	Kelly	Shuster
Daniel, Dan	Kemp	Sikes
Daniel, Robert	Ketchum	Sisk
W., Jr.	Kindness	Slack
Daniels,	Krueger	Smith, Nebr.
Dominick V.	LaFalce	Snyder
Danielson	Lagomarsino	Staggers
Davis	Landrum	Stanton,
de la Garza	Lent	J. William
Dent	Litton	Steelman
Derrick	Lloyd, Tenn.	Steiger, Ariz.
Derwinski	Long, La.	Steiger, Wis.
Devine	Lott	Stephens
Dickinson	Lujan	Stuckey
Downing	McCollister	Symms
Duncan, Oreg.	McCormack	Talcott
Duncan, Tenn.	McDonald	Taylor, Mo.
Eckhardt	McEwen	Taylor, N.C.
Edwards, Ala.	McFall	Teague
Eilberg	McKay	Thone
Erlenborn	McKinney	Thornton
Eshleman	Madden	Treen
Evans, Colo.	Madigan	Udall
Evins, Tenn.	Mahon	Ullman
Fenwick	Mann	Vander Jagt
Flood	Martin	Waggonner
Flowers	Mathis	Walsh
Flynt	Mazzoli	Wampler
Weaver	Wilson, Bob	Yatron
White	Winn	Young, Alaska
Whitehurst	Wright	Young, Tex.
Whitten	Wydler	Zablocki
Wiggins	Wylie	

NOT VOTING—16

Alexander	Michel	Wilson,
Cederberg	Mills	Charles H.,
Collins, Ill.	Mitchell, Md.	Calif.
Esch	Risenhoover	Wilson,
Goldwater	Skubitz	Charles, Tex.
Hastings	Sullivan	
Hébert	Waxman	

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word for the purpose of asking a question of the chairman of the subcommittee.

Mr. Chairman, I would like to ask the chairman of the subcommittee, the distinguished gentleman from Arizona (Mr. UDALL) to give us an explanation with respect to paragraph 2 on page 264:

Complete backfilling with spoil material—

This relates to steep slopes—

shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

I wonder if the chairman could explain whether the words "approximate original contour" mean that the operator cannot take necessary steps to control drainage and erosion during reclamation?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the answer is "No."

"Approximate original contour" is a general standard and as defined in the act means that surface configuration "achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of land prior to mining and blends into and complements the drainage pattern of the surrounding terrain."

After regrading to approximate original contour and reconstructing the basic drainage pattern in the regraded area, one of the major problems facing the operator is the control of erosion during the reestablishment of vegetation. Regrading to approximate original contour allows the surficial shaping of the regraded area to adequately control drainage and erosion. Appropriate drainage control measures involving the shaping of the surface include, for instance, a series of diversion ditches or ridges across the final grade of slope, the use of grass-lined waterways, gouging to retard surface runoff and increased infiltration into the spoil, and similar measures which are in common use by the Soil Conservation Service for the Environmental Protection Agency. The general measures of siltation control and further discussed and expanded in the committee report—pages 105–106.

Mr. SEIBERLING. I would also like to ask the Chairman if "approximate original contour" means that, subsequent to the backfilling of the highway, it would be permissible to run a haul road or access road across the restored terrain.

Mr. UDALL. Yes.

The committee recognizes that mining access and haul roads, under limited and prescribed conditions, might well continue to serve useful purposes to land owners after reclamation. In such limited circumstances, roads can be left as part of the reclamation plan, but it is also expected that this will be identified in the approved mining and reclamation plan. The committee report contains a discussion of the role of coal access and haul roads—pages 117–118—includir the potential utility and performing environmental protection functions by breaking up drainage down long slopes or perhaps serving as a barrier to keep spoil off outslopes. Specific standards in the bill apply to access roads and these would have to be met.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Arizona. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask unanimous consent that all debate on this section and all other sections and all other titles of the bill end no later than 4:30 this afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. SEIBERLING. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STEIGER of Arizona. Mr. Chairman, for that logical and reasonable objection, I will sit down.

The CHAIRMAN. Are there further amendments to section 522?

Are there amendments to section 523?

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Page 297, after line 18, insert the following:

"(f) Section 3(b) of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352) shall not apply to deposits of coal (including lignite) from lands within the boundaries of Camp Swift National Guard Facility, Texas, which may be leased by the Secretary of the Interior to a governmental entity (including any corporation primarily acting as an agency or instrumentality of a State) which produces electrical energy for sale to the public, but only if the Secretary of Defense concurs in such leasing."

Mrs. MINK. Mr. Chairman, I make a point of order against the amendment.

Mr. PICKLE. Mr. Chairman, would the gentlewoman reserve her point of order?

Mrs. MINK. I will reserve my point of order.

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Chairman, I want to take a little time in exploring a perplexing situation under our present mineral leasing laws.

Under our law, coal or lignite under acquired Government property set aside for military use cannot be leased. I have had people research this statute, passed in the 1920's, and there is no evidence whatsoever why this exception to leasing was put into the law. But it was.

Since a desire to obtain coal or lignite, that lies under acquired Federal property set aside for military purposes, has

not been a factor in passing laws over the past 55 years, the Congress has allowed this anomaly to continue. It ought to be changed.

In my congressional district, we have collided head-on with the roadblock thrown up by 30 U.S.C. 352.

Because Texas entered the Union as a Republic, Texas retained title to all public lands. Thus, any Federal land in Texas is "acquired property."

During World War II, an Army base was established south of Austin, near Bastrop, Tex. This base, called Camp Swift, is still owned by the Department of Defense even though only the Texas National Guard and some Reserve units use the property.

In the early 1900's, throughout this region, lignite was mined. Texas oil and gas soon snuffed out interest in lignite.

Today, however, the utilities of central Texas need to convert their generators from natural gas and oil to energy sources like coal or lignite. These utilities are not investor owned but publicly owned utilities. They are the utilities owned and run by the city of Austin and the Lower Colorado River Authority, a State agency.

Already these two government agencies are constructing a new coal-fired plant. To fire this plant, Austin and the LCRA have contracted for coal from Montana.

Considering transportation costs, and the unreliability of moving coal from Montana to Texas, everyone agrees that using Texas lignite would be a better course of action.

The Texas National Guard has agreed to a mining plan drawn up by the Becthol Power Corp., which was hired by the LCRA to study the Camp Swift lignite. The plan calls for piecemeal mining and the latest in land reclamation techniques. Such a technique would not interfere with the Guard's use.

The LCRA and city of Austin are ready to take steps to mine the lignite.

But alas, no one can let the lignite go because of a 1920 statute.

Central Texas utility bills have tripled and quadrupled because of the rising costs of natural gas and fuel oil.

Over 2 million citizens need the help of Congress in getting this lignite.

Mr. Chairman, the amendment I have offered is as follows:

Section 3(b) of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352) shall not apply to deposits of coal (including lignite) from lands within the boundaries of Camp Swift, National Guard facility, Texas, which may be leased by the Secretary of the Interior to a governmental entity (including any corporation primarily acting as an agency or instrumentality of a State) which produces electrical energy for sale to the public, but only if the Secretary of Defease concurs in such leasing.

This amendment was narrowly drawn just to take care of Camp Swift.

The gentleman from Arizona, and the gentlewoman from Hawaii, have suggested that my amendment would more properly be in legislation reforming the mineral leasing policy instead of this strip-mining bill.

May I ask the Committee when such legislation will be considered?

POINT OF ORDER

Mrs. MINK. Mr. Chairman, I insist on my point of order?

The CHAIRMAN. The gentlewoman from Hawaii will state her point of order.

Mrs. MINK. Mr. Chairman, I am forced to make a point of order on this amendment because it seeks to amend the Mineral Leasing Act which is not amended by either this section or by any other section of the bill that we have under consideration.

The particular section which this amendment seeks to amend has to do with a provision which sets up the procedures by which the Federal Government establishes a reclamation and mining plan with respect to its Federal lands. It has to do with the establishment of standards and methods of extracting the coal and relates to the provisions that constitute requirements for such removal.

This amendment which the gentleman from Texas has offered to do with the amendment of another statute entirely separate from the pending bill and seeks to single out one particular piece of property located in the State of Texas, to render it exempt from the provisions of the Mineral Leasing Act.

So for the purposes of this bill, my point of order goes to the point that it is not germane and it amends a bill that is not a pending matter.

Mr. PICKLE. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. Yes, I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, would the gentlewoman not agree in principle that since the Defense Department, the appropriate part of the Federal Government, which owns title to the land, is agreeable to the mining of the lignite for the use of a publicly owned utility, that ought to be taken into account?

Mrs. MINK. Yes, Mr. Chairman, I will agree with the gentleman as to the substance of his amendment. I wish only to suggest that there is a bill pending before my subcommittee which seeks to go into this entire matter of coal leasing, and it would be more appropriate for the amendment to be considered in the consideration of that bill.

Mr. PICKLE. Mr. Chairman, will the gentlewoman tell me what action there has been on that bill?

Mrs. MINK. We have had hearings on that same bill last year. It was up for markup last December, but we could not complete our business. It is now the immediately pending business of the subcommittee as soon as this strip mining bill has been completed.

Mr. PICKLE. Mr. Chairman, if the gentlewoman will yield further, the gentlewoman makes reference to the Minerals Leasing Act which was previously considered. Is that the same measure that did pass the other body last year?

Mrs. MINK. The gentleman is correct.

Mr. PICKLE. And the time just ran out, and that is the reason we did not get to the consideration of that bill?

Mrs. MINK. The gentleman is correct.

Mr. PICKLE. Mr. Chairman, I do not know what the ruling of the Chair would be, but I think the amendment is germane.

Certainly, in the case the Chair would rule differently, I suggest we act on this matter with the greatest speed, because this material is needed by publicly owned utilities, and everybody is agreed it is held up because of the old 1920 statute. Certainly time is of the essence.

Mrs. MINK. Mr. Chairman, I assure the gentleman that this matter will be considered at the appropriate time, when we take up the minerals leasing bill.

The CHAIRMAN. Does the gentleman from Texas (Mr. PICKLE) wish to be heard further on the gentlewoman's point of order?

Mr. PICKLE. Mr. Chairman, in view of our colloquy, I do not believe I will proceed with this matter any further.

The CHAIRMAN. Does the gentleman request unanimous consent to withdraw his amendment?

Mr. PICKLE. Mr. Chairman, I ask unanimous consent to withdraw my amendment, since I have had the assurance by the gentlewoman that the committee is in the final stages of the markup of the other bill and will give first consideration and top priority to that matter.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Mr. Chairman, I offer an amendment to section 522.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Page 294, line 13, insert after the word "lands" the following: "which adversely affect or are located".

Mr. WIRTH. Mr. Chairman, the purpose of this amendment is very simple. It assures that any strip mining which might occur next to National Park Systems, the National System of Trails, the National Wilderness Preservation System, and the Wild and Scenic Rivers and National Recreation Systems, meaning strip mining which may occur next to those particular national preserves, will not be allowed to occur if it is going to have an adverse impact.

For example, in my part of the country it is very possible that we might have strip mining occur next to a national forest and have the activities of that strip mining affect wildlife and game and cause various kinds of erosion.

It seems to me this amendment is particularly in the spirit of the bill which has been managed so ably by the gentleman from Arizona (Mr. UDALL).

Mr. Chairman, I urge adoption of my amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is the one part of the Dingell amendment which was acceptable to me. It has nothing to do with the national forests.

It simply says that if one is strip mining on lands adjacent to a national park and it would adversely affect that national park, it would not be permitted. I think that is in the spirit of what we are trying to do, as the gentleman said.

Mr. Chairman, I do not think this amendment makes any great change, and, in fact, I believe it strengthens the bill.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I understand what the gentleman is attempting to do, but I will just point out that as this amendment is written, it may be subject to misinterpretation of existing rights. It would say that no surface coal mining operations shall be permitted "on any lands which adversely affect."

By the simple sentence structure—and I do not mean to be nitpicking—what the gentleman is saying in the amendment is that the lands themselves adversely affect the image of the National Park System. I think what the gentleman means to say is: "If the mining activity would adversely affect the following systems."

I would just point out to the gentleman that if he will read the language as he has offered it, it now reads "on any lands which adversely affect or are located within the boundaries of units of the National Park System," et cetera.

Mr. WIRTH. No, it reads, "shall be permitted—which adversely affect."

Mr. STEIGER of Arizona. I am sorry. I realize that that is the gentleman's intention, but that is not the way it reads. If the gentleman wants to leave it like that that is fine since he obviously has the votes, but does that means that the genlteman wishes to leave an inaccurately constructed sentence in there, simple because he has the votes?

Mr. WIRTH. I think I know exactly what it means, and the gentleman knows what it means.

Mr. STEIGER of Arizona. Does the gentleman mean that the lands adversely affect the National Park System?

Mr. WIRTH. No, strip mining which adversely affects.

Mr. STEIGER of Arizona. The gentleman is not reading the whole sentence. Read the whole sentence as you have amended it. I ask the gentleman to read it to himself.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. WIRTH. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I think it is very clear as to what the gentleman intends. If there is a problem, we would like to have the legislative history clear.

The gentleman is talking about mining operations which adversely affect and not the existence of the lands which adversely affect. It is the mining operations, is it not?

Mr. WIRTH. Mining, strip mining, which adversely affects the operations.

Is that difficult to understand, I ask the gentleman from Arizona (Mr. STEIGER)?

Mr. UDALL. Mr. Chairman, we have to go to conference on this. If there is any difficulty with the language, we can iron it out.

Mr. WIRTH. The gentleman from Arizona (Mr. STEIGER) is concerned about it, is he not?

Mr. STEIGER of Arizona. The way it reads, there is going to be a lot of litigation.

Mr. WIRTH. I do not think there is any problem of litigation if the gentleman reads the record.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. BLOUIN. As the sentence starts out, it talks about strip mining and not whether it is a surface mining operation. I do not know how it could be any clearer.

Mr. WIRTH. Those are my sentiments exactly.

Mr. RUPPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the markup of this legislation we made some very definite determinations as to where mining would be permitted and where that mining would not be permitted. We did preclude mining within the boundaries of the units of the national park system and other specified units of Government-owned land.

However, we are expanding that prohibition very severely, very sharply, when we say one cannot mine on privately owned land that might or, in fact, does adversely affect these units of public ownership. When we say "adversely affect," we are right back in court.

Any individual who wants to mine in the general vicinity or near any units outlined on page 294 is subject to suit, litigation, and harassment on the grounds that that mining might in some way adversely affect the utilization of these Government lands.

When we say "adversely affect," it seems to me that we are developing very much a judgmental view. As a result, the final determination of "adversely affect" will in almost every instance wind up in court. As I recall, the individuals who marked up that bill were of a very firm mind as to where mining should and should not be permitted. To say that we will not permit mining now on any private land that might in some way adversely affect any of these units outlined, it seems to me, goes far beyond what we intended in the committee.

Beyond that, it is an invasion of private rights.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Is that not what the committee is trying to protect, to protect the National Park System, the National Wildlife Refuges System, the National Wilderness Preservation System and so forth? All this does is say that when strip mining adversely affects these areas that we are trying to protect. All this amendment does is to underline the protection of these areas by making it impossible for adjacent strip mining to adversely affect these areas.

Mr. RUPPE. How does one adversely affect? He may have to pass the mined areas. He may have to look at it. How do we get down to "adversely affect"? Will that not, in almost every instance, be a court determination, and should that provision in this legislation lead to endless lawsuits and legal harassment?

Mr. HECHLER of West Virginia. I would say to the gentleman from Michigan that he is really splitting hairs if he says he wants to protect these areas and then does not want to protect them from being adversely affected. That is a very silly distinction which is meaningless.

Mr. RUPPE. We do protect the areas. We protect the national forest lands. We protect all of the other areas outlined. But to say to an individual, "You cannot mine on your property because in some way it might adversely affect the utilization of these Government lands," it seems to me would be a taking and an outrageous invasion of private rights.

Mr. HAYES of Indiana. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. HAYES of Indiana. Mr. Chairman, I might say, in terms of the question the gentleman asked about endless lawsuits, that in 1966 this body passed the Historic Preservation Act, and the language there states that the President's Advisory Council, for example, on historic preservation, shall make a report to the agency on whether or not there is an adverse effect.

The Federal Register sets out four points of view on how to determine adverse effect, and that includes things that are specifically detracting from the history of the unit that you are trying to protect. These do exist in the National Register, and they can transpose these over. The gentleman will also find that there are two lawsuits on this viewpoint since 1966.

I think very clearly that the intent of this legislation through the record that has been made does exist, and therefore I do not think the gentleman should fear endless litigation. In fact, all we are doing is protecting the national assets, such as our park assets, from the encroachment of strip mining that we know about, and it probably will not affect a very large portion of it at all.

Mr. RUPPE. Is the gentleman saying that those same standards would be applied, all the four standards?

Mr. HAYES of Indiana. Yes. I think the same as it is with the history of other agencies, in setting forth those standards, the Department of the Interior would handle it in that way, I think we can assume they would also deal with this in the very same way. It makes administrative law sense to do it in that fashion. I believe that any accord will require that the standard be applied in the very same manner it has been.

Mr. RUPPE. In other words, the gentleman believes we can leave it up to the Department of the Interior to set it up.

Mr. HAYES of Indiana. I believe that

that kind of a delegation is a meaningful delegation of authority. We certainly cannot expect that we will burden the record by setting forth all of the rules and regulations, we have never done so. We could, of course, for some purposes, but I think in large measure this makes good legal sense to allow them to go ahead. These things would certainly be open to review.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. FLOWERS, and by unanimous consent, Mr. RUPPE was allowed to proceed for 1 additional minute.)

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman.

Mr. FLOWERS. Mr. Chairman, I think the gentleman has made a good point. If the spirit of this legislation is to insure that there will be no adverse effects from the strip mining or surface mining, and this seems to be what we are trying to do here, it is not necessary to seek to do this by the offering of an amendment such as this, if it is redundant. At least the gentleman makes a good point, and I agree that the amendment is not necessary if it is redundant, if it goes beyond and does attempt to further restrict this. I question why the committee did not bring this to the House in the bill.

Mr. RUPPE. I thank the gentleman for his remarks. I simply wish to reiterate that I believe it will lead to endless litigation, and the delay will be, I think, extensive.

Mr. FLOWERS. I think the gentleman's concerns are justified.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The question was taken; and on a division (demanded by Mr. WIRTH) there were—ayes 24, noes 25.

Mr. WIRTH. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Are there further amendments?

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Arizona: Strike all of section 529, consisting of lines 1 through 24, and lines 1 through 3 on page 306.

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-one Members are present, not a quorum.

The Chair announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Arizona is recognized for 5 minutes.

(Mr. STEIGER of Arizona asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Arizona. Mr. Chairman and fellow protectors of the fragile ecology, I want to call to the attention of the Members page 305 of the bill. On page 305 of this bill there is a fairly remarkable section, section 529.

In my relatively brief sojourn here in the House I have seen a great many legislative feats of legerdemain, but this is one of the best ones.

Section 529 rather remarkably exempts anthracite from the provisions of this bill. There are other exemptions in this bill for other particular situations. There are exemptions for particular specific mining operations. There are exemptions for some geographic areas. All of these exemptions came about in the full light of day in the committee operation after, of course, much heated discussion and much heated explanation.

That is what makes the anthracite exemption so remarkable, because it was apparently conceived in the dark of night somewhere. It was clearly arrived at as a quid pro quo for the support of the Pennsylvania delegation—which is not unheard of in these Halls—but the fact is that it owes its presence to no logic and no reason other than the muscle of the corporation involved and the union involved.

Anthracite as a surface-mined product of the earth is very limited in amount. In fact, there is something like 600,000 tons of anthracite mined on an annual basis from surface-mined operations, possibly 650,000 tons. Some 550,000 to 600,000 of these tons of anthracite are mined on three properties in Pennsylvania, and those three properties are owned by the Bethlehem Steel Co. These properties were not acquired by the Bethlehem Steel Co. until 2 or 3 days following the inclusion of this exemption in the conference committee report between the House and the Senate in their production of their version of this bill.

There was not 1 minute of discussion heard in a committee on either the House side or the Senate side, and there was not 1 minute's discussion on the floor.

The fact is that the first explanation as to why this exemption is in the bill came in a letter from our very able colleague, the gentleman whose sartorial splendor is matched only by the keenness of his wit, the gentleman from Pennsylvania (Mr. FLOOD), who advised us in a "dear colleague" letter last week that this exemption came to be as a result of the unique geological and geographical qualities of anthracite.

While I submit that those unique geologic and geographic results are none other than the gentleman from Pennsylvania (Mr. FLOOD) himself, because the rest of the country is not represented so ably, apparently. If, indeed, the protections and regulations that are inherent in this bill are too onerous for anthracite, then I submit they are far too onerous for the rest of the country, because the only difference between anthracite and bituminous or lignite is that anthracite is represented by the gentleman from Pennsylvania (Mr. FLOOD).

Now, the Senate knocked this exemption out without a whisper of complaint, not one syllable, because they knew it was indefensible. We have some figures here that demonstrate that this bill will add to the cost of the average electrical utility bill at the rate of some 11½ percent before we compute the loss of production. That, say the anthracite people, is why anthracite should be exempted, because 45 percent of the folks in that area burn the coal that is mined in that area in both their homes and that produce electrical energy.

I submit that that same increase applies to all the coal across the country.

I sympathize with the good folks in Pennsylvania who do not want to bear the additional unnecessary burden, who do not want to have their electric bills increase to a point they cannot afford, who do not want surface mines shut down so they lose jobs. I agree with that, but I have to confess that if it is too burdensome, if the burdens of this bill are too much for anthracite, then they are too burdensome for the entire country.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(At the request of Mr. SYMMS and by unanimous consent, Mr. STEIGER of Arizona was allowed to proceed for an additional 4 minutes.)

Mr. STEIGER of Arizona. Mr. Chairman, this really is a very, very basic confrontation here that we have. It is a basic confrontation, not only between logic, reason and reality, and the legislative process, which is a frequent one, but this is a confrontation between the political muscle of a single company, Bethlehem Steel, a single union, the United Mine Workers, and their ability to convince a sufficient number of their constituency that is a justifiable part of the bill, when indeed, it is not. There is simply no defense of this section in logic or reason.

It occurs to me that even absent the entire Pennsylvania delegation's support for this bill, it is still going to pass; so there is no need to embarrass the House with the burden of trying to justify this section.

My friends, the logic is irrefutable, that if, indeed, the bill is too onerous for anthracite, it is, indeed, too onerous for the rest of the country. I happen to believe that it is too onerous for the rest of the country, but the fact is that I have been unable to convince the House that it is too onerous for the rest of the country. I am sure that anthracite is going to be exempt by the rest of this bill and they have said the rest of the country must endure this.

Those political muscular folks who have been able to justify this language in the bill here also in terms of the Bethlehem Steel Co., the only ones to go to the President, the only company to go to the President, asked that he not veto the

last bill. I am sure if this provision is in this time again, they will also continue that urging.

I will tell this House that the presence of this language in the bill ought to be an embarrassment to the whole House and it should be very difficult to embarrass this House.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I hardly qualify as one of those robust fellows at this point, but I do not stand here with any sense of guilt or that I am in anyway doing anything that I would not be proud to do on the basis of the facts and the logic.

Back when we were in our heyday in the six counties in Pennsylvania that produce anthracite coal, we were producing at that time 145 million tons of coal a year. Outside of the six anthracite counties in Pennsylvania, there is only one area in the world that has true anthracite, and it is about 75 percent of the purity of our anthracite.

Because of the shipment of oil to the United States and using bunker oil as a ballast, there was a strike in 1926. The oil people realized somehow that they could use this bunker oil as a fuel. So, that strike destroyed the anthracite area of Pennsylvania.

It is the longest history in personal depression, community depression, in the entire United States of America. It moved to a point where something like 70 percent of the men in the area were doing the housework and tending to the homes and the women were out working in a group of small, little hosiery mills and some shirt factories that were brought in by community action.

The production in that area today is sufficient for 3,000 miners, who are carrying on their backs 15,000 retired anthracite miners receiving $30 a month. Added to their social security and something from the welfare fund of the United Mineworkers, this group has stayed away from public welfare as a matter of pride, and not because they did not have the need.

In determining the basis of participation in the pension reform legislation, the magnificant gesture by the multiemployers and the multiemployer unions decided to vote their funds that they are contributing 6 months ahead of the time that they participate in the pension fund's trust fund to make it possible for the anthracite miners' trust fund to come under the trust fund at the same time as the single employers did.

This has been a region of personal and community sacrifice since 1926. I served for 22½ years in the State Senate, and as a floor leader for 18½ years. I went through the battles of the bootleggers; I went through the battles where there was not one legitimate coal operation in the entire anthracite region, and bands of former miners would go out into the coal properties and dig a rathole, and many of them died trying to eke out a living. They even confiscated collieries so that they could break down the coal, which is of an entirely different character than bituminous coal. It is something so far apart from bituminous that perhaps it ought not to be known as coal. It is a mineral completely different from coal as we know coal to be.

What are we talking about? We are talking about an area that was devastated long before most of the Members of this Congress were born, and we have been able, through the laws of the State of Pennsylvania on reclamation and mine stripping, to put together the money from the bituminous fields and in a different piece of legislation altogether for anthracite, which was completely ignored until this committee realized its responsibility to this area and exempted it from the anthracite.

What are we exempting? We are exempting from this bill the absolute positive death of the little economy that we have left in that area today in coal. It is without doubt the most magnificent fuel. It is almost 100 percent carbon.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. OTTINGER, and by unanimous consent, Mr. DENT, was allowed to proceed for 4 additional minutes.)

Mr. DENT. I thank the gentleman.

Its only other use we have been able to find for it—and that is a very minute amount of coal—is for the purification of water. In its original state, it is one of the greatest purifiers of water there is in the country. But one cannot make a living in this region. It is a very high-cost operation. I do not have the time to explain, but I will give the Members just a little 30-second, rapid difference of what bituminous coal is and what anthracite coal is.

Bituminous coal is a coal that develops in the earth on a horizontal plane. It will have a slope to it of a few degrees, and sometimes it will go the other direction, downhill, but very few degrees. In the anthracite it is a vertical slope.

The city of Scranton, Pa., had a 90-foot thick vein of coal, 90 feet at the surface, and down 4,000-some hundred feet, up straight, absolutely vertical, and then it went on a slight horizontal plane and came up the other side of the city of Scranton.

It is a different coal. You go down and you pick it out. You set a small gage walk along the way, and you pick the coal down. It does not lend itself to the modern machinery, because of the nature. You could not stand a cavern 4,000 feet deep, 90 feet wide, without creating the greatest hazard and without creating the greatest blemish on the Earth as you have ever seen in your life.

They managed to eke out a living, a very bad living, but they eked it out. It is the only community in the entire State of Pennsylvania which had to pass an exceptional, extraordinary educational piece of legislation where taxes were taken from the rest of the State to keep the schools open.

Now you say to me that this is unconscionable, that we should even have this legislative enactment containing this exemption.

I do not come from the anthracite region but I had its problems in the State legislature for a great part of my lifetime, and I know it, I think, as well as most men and women who lived in the anthracite region.

In this community of ours, the Congress of the United States, there are 18 or 20 Members who grew up and were born in the anthracite region, and they left there. We have a Member from New Jersey who grew up in that anthracite region and could not make a living there and moved to New Jersey. We have two or three from Pennsylvania. We have many Members of this Congress who, in their early youth, or later, when they finished high school, had to move because there was no opportunity there.

Considering 10 cents a ton you get from deep mining and considering the entire amount you get from strip mining, we have to strip 350 to 400 feet deep in layers, the same as you do for iron ore, to come out with 61½ or 7 feet of coal.

I have visited strip mines out West that had 75 feet of overburden and 75 feet of coal. Can we compare the two? We cannot.

But let us not kill this region for this reason. If we count all stripped coal—and it is not all stripped coal—the entire amount that we collect would be $600,000, and we are spending more than that out of what they are doing up there now to rehabilitate the old gob piles and correcting all of the damage that has been done long before this generation had anything to do with it.

Mr. Chairman, I beg of the Members to give consideration to a community that needs it from this Congress.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. DENT) has expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, may I ask the gentleman this: Is it not true that Pennsylvania is the only State in the Union where anthracite coal is being mined?

Mr. DENT. The gentleman is correct. Pennsylvania is the only State in the Union that has any.

Mr. SEIBERLING. So that there is no necessity for a national strip mining bill with respect to anthracite coal, because it is all within Pennsylvania and Pennsylvania is handling it with its existing legislation.

Mr. DENT. Mr. Chairman, the mining is so different that we in Pennsylvania had to have a separate law for mining, a separate law for inspection, and a separate law for the mine dust levels that we created, as contrasted to the mining of bituminous coal.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding.

I rather like the line of questioning by the gentleman from Ohio (Mr. SEIBERLING).

I would like to ask this question: Is there any bituminous surface mining in Pennsylvania?

Mr. DENT. There certainly is.

Mr. STEIGER of Arizona. Mr. Chairman, in view of the excellence of the Pennsylvania law and in view of the position of the gentleman from Ohio on anthracite, it would seem more logical that we also exempt the Pennsylvania bituminous surface mines.

Mr. DENT. May I make this suggestion to the gentleman——

Mr. STEIGER of Arizona. I welcome any suggestion.

Mr. DENT. The Pennsylvania law is a good one; is that right?

Mr. STEIGER of Arizona. That is correct.

Mr. DENT. Mr. Chairman, I might suggest that this House in its wisdom could adopt the Pennsylvania bill in its entirety. After 19 years of hit and miss to get legislation, which I first introduced that many years ago, we finally got a good law. If we could adopt that law, we would not be in the tangle we are in now.

But we did not have the problem that this committee had. We did not have the problem of interference in other matters supervised by other departments of Government.

Mr. Chairman, I will say to the members of this committee that I have fought all along the line for this, and I believe we have come out with a Solomon-wise proposal that we ought to buy.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. DENT) has expired.

(On request of Mr. STEIGER of Arizona and by unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I will ask the gentleman this: Does the Pennsylvania law exempt anthracite from its provisions?

Mr. DENT. It certainly does. They have their own law, which has nothing to do with the bituminous coal law.

Mr. STEIGER of Arizona. Pennsylvania has no law which deals with anthracite reclamation?

Mr. DENT. Yes, because it is the only State that knows how to handle it. We would be glad to tie the Pennsylvania law into the Federal law, because it would only affect our State and we can live with it.

Mr. STEIGER of Arizona. Mr. Chairman, in response to what the gentleman has said, if the gentleman will yield further, I will ask another question.

Pennsylvania has regulations to deal with anthracite?

Mr. DENT. The gentleman is correct.

Mr. STEIGER. Yet the gentleman is asking for a Federal law to exempt the anthracite regulations, because of the existence of part of the Pennsylvania law?

Mr. DENT. No, the gentleman is wrong. We are saying that if Pennsylvania does not enforce its law, then it becomes the duty of the Federal Government to enforce the State law.

How much further could we go?

Mr. STEIGER of Arizona. Let us do that nationally, then.

Does the gentleman recommend that we do that nationally with all coal?

Mr. DENT. Mr. Chairman, if States have laws that meet the maximum requirements and go beyond the Federal laws, I think those States will apply their laws, because they already meet national standards.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for his support of my position.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the point raised by the gentleman from Arizona really gets to the heart of this bill. If every State had laws comparable to those of Pennsylvania, there would not be any need for this legislation.

But if Pennsylvania is going to do a good job of controlling strip mining and some other States are not, then the Pennsylvania mines are put in an unfair competitive disadvantage by the fact that other States are not imposing similar requirements on their strip mine operations. That is why we need minimum Federal standards which all States must meet, but may exceed.

Mr. DENT. Mr. Chairman, I think the gentleman is right.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment.

I do so in order to clarify a number of points which I believe have been misrepresented by the sponsor of this amendment.

The gentleman would have us believe that in the consideration of this legislation the committee gave no particular attention to special problems that exist with respect to coal mining in other parts of the country, and that, for some reason, we put on our blinders and paid special heed only to the particular problems in the anthracite region in Pennsylvania.

As a matter of fact, if the Members would look at the bill, they will see that the immediately preceding section to the one we have under consideration, section 527, is entitled "Special Bituminous Coal Mines."

This particular section sets forth special performance standards, special exemptions, special handling, special consideration for the Kemmerer mine which exists in the State of Wyoming. We made this exemption, because of the geographic considerations, again, which were argued by those who were familiar with the mining operation, who brought evidence to the committee that the condition of the seams in this particular location made it necessary to mine in huge pits and, therefore, the regular standards that we were stipulating would not apply. Consequently, we set forth a whole new exemption for that particular mining operation.

We also exempted Alaska on the same or similar grounds, but perhaps based more on the fact that we did not really understand the geology of that State, and there were many problems that could not be anticipated. Therefore, rather than imposing these standards on Alaska, we went along and said, "All right; let us go for the study." We decided that after this study we would then decide what indeed the performance standards should be.

In the case of anthracite, we were simply dealing with the long history of mining in Pennsylvania, that these areas have been mined before and are situated in narrowly limited areas of Pennsylvania, that they have unique problems, not only geographic in nature, but also because of drainage resulting from the great bulk of these deposits occurring in the river basins of the Susquehanna and Lackawanna Rivers.

Therefore, Mr. Chairman, it seems to me that instead of again sitting down and writing an entirely new section which would be called "Anthracite Mining," and attempting to rewrite the standards we knew were in existence in Pennsylvania, we very carefully allowed the exemption only with respect to interim standards and performance standards and said that these would be the standards in existence at the time of the writing of this bill.

We also provided that if the legislature amended the State law, this section would be rendered null and void, because we wanted to limit it strictly to what we knew existed at the time we wrote this exemption.

All of the sections of the bill with respect to citizen suits, with regard to the enforcement of the statutes of Pennsylvania are carefully retained under this legislation. It seems to us that this was a reasonable approach. It was never in the minds of any who helped to write this bill, particularly myself as the chief author of this section, that our views were affected one iota by the sale of any property in Pennsylvania. If the Members will look at the record, they will see that the negotiations for this so-called sale began in 1972 and which incidentally only covers a very small fraction of the total anthracite mines in Pennsylvania. The enactment of the exemption in this provision had nothing whatsoever to do with the culmination of these transactions by Bethlehem Steel. Anthracite furthermore is only about 5 percent of the total coal production of the State of Pennsylvania.

All other coal mining activities in Pennsylvania to wit, bituminous coal falls within all the provisions of H.R. 25. It seems to me that the committee bill is reasonable and justified by the facts and that the House should go along with this special consideration for anthracite, just as we voted for the bituminous open-pit exemption for Wyoming and for the Alaska exemption. We are only saying that past regulatory experience in Pennsylvania indicates that this exemption is worthwhile, because the State of Pennsylvania has demonstrated its willingness to have Federal enforcement provisions apply. It seems to me reasonable

for us to go along with this kind of arrangement; State standards with Federal enforcement.

Mr. UDALL. Mr. Chairman, will the gentlewoman from Hawaii yield?

Mrs. MINK. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I want to heartily endorse every word the gentlewoman from Hawaii (Mrs. MINK) has just said.

This is a sound section. It is based on special consideration. She drafted it in careful consultation with the Pennsylvania people. The Governor of that State endorsed it. Other groups have endorsed it, and it ought to be retained.

The idea has been kicked around here and in committee that there is Mafia money, that there is some skulduggery afoot, something devious has gone on in connection with the acquisition by Bethlehem Steel of a small portion of the anthracite area.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent, Mr. UDALL was allowed to proceed for 1 additional minute.)

Mr. UDALL. Mr. Chairman, I intend to ask the General Accounting Office to check out all of these allegations so we will be absolutely sure that there is nothing to them and we will then have a basis for final action on this bill.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

(Mr. KETCHUM asked and was given permission to revise and extend his remarks.)

Mr. KETCHUM. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arizona (Mr. STEIGER). As a member of the Committee on Interior and Insular Affairs, and the Subcommittee on Mines and Mining, and as one of the individuals who listened to literally hundreds and thousands of hours of testimony, I suppose, in and out of Congress on this bill, and also as a member of the conference committee that discussed this bill for some 67 hours last year, may I say that never in the process of those discussions other than in the conference committee was this subject ever brought up.

The gentlewoman from Hawaii (Mrs. MINK) is entirely correct that we spoke about the exemptions, especially for bituminous coal and for Kemmerer Mine, and for Alaska, and we spent hours in the full light of day discussing them, but we never discussed this amendment.

Let me say at the outset——

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. No. Not at this time.

Mr. Chairman, let me say at the outset that I have no criticism whatsoever of the Pennsylvania delegation. They are doing that which they should do, and what I would do, I am sure, if I came from Pennsylvania, but the fact is that it is still coal, and it is still being stripped. We are granting them in this bill an exemption that does not apply to any other strippable coal. There is simply no moral way that one can justify this provision of the bill.

Anthracite coal stands horizontally and vertically, and so does bituminous coal. I do not remember anywhere in the discussions, even on the part of my somewhat vitriolic friend, the gentleman from Arizona (Mr. STEIGER) in his discussions, anywhere where the Mafia was ever mentioned, Bethlehem Steel, to be sure, and I wonder about that myself.

But, simply stated, there is no moral way that one can exempt anthracite from this bill. I repeat, it is coal, and it is stripped.

I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The Members who were standing at the time the unanimous-consent request was made will be recognized for 1¼ minutes each.

The Chair recognizes the gentleman from West Virginia (Mr. HECHLER).

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Chairman, the only thing that disturbs me about this amendment is its sponsor. I feel very uncomfortable in this situation. That is, I strongly support the position of the gentleman from Pennsylvania (Mr. FLOOD) on 99.9 percent of the issues that come before this House. I respect his integrity, support his philosophy, and team up with him on virtually every issue before this House.

I would just like to observe that possibly by coincidence, or sheer happenstance, the gentleman from Arizona (Mr. STEIGER) may have just by pure luck hit upon an amendment that is morally justified in this instance.

I would observe, Mr. Chairman, that since 1971 I have read every word of the testimony before all of the committees of the House and Senate, and there is not one single word of evidence or bit of testimony in support of this amendment, or even opposed to it, for that matter. The subject has simply never been raised in any testimony. There was no debate upon it when it was adopted on the floor last year, according to the RECORD of that day; it was just brought up suddenly, and adopted immediately, without any debate. I cite page H7100 of the CONGRESSIONAL RECORD of 1974 during our July debate on this legislation. It seems to me there is only one reason for this provision in this section: it was put in the bill to win over the votes of the Pennsylvania delegation in support of this bill.

Again I commend the gentleman from Pennsylvania for his energy and efforts, but I urge support for the amendment striking this inequitable section of the pending legislation.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SYMMS yielded his time to Mr. HECHLER of West Virginia.)

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I appreciate the position the gentleman is taking. I think we could properly name this the anthracite amnesty amendment to the coal bill.

Mr. HECHLER of West Virginia. I thank my friend from Idaho. I would suggest, Mr. Chairman, that under the State program procedure provided in this legislation, Pennsylvania can come in with a State program which does exactly what is attempted by the Pennsylvania delegation. Why do we have to write into the legislation an exemption to the anthracite industry? Why do we have to write into the legislation an exemption from the performance standards of sections 515 and 516?

I strongly urge that this amendment be adopted, even though it is offered by the gentleman from Arizona (Mr. STEIGER), with whom I strongly disagree on nearly every issue.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. My admiration for the bill and my respect for the chairman of the committee make it hard for me to join in anything that might seem an attack on the bill, but I should like to ask two questions. What is the difference between the Pennsylvania regulations and the Federal regulations which makes the Federal regulations so particularly onerous and heavy as to risk destroying the surface anthracite mining in Pennsylvania?

Mrs. MINK. If the gentlewoman would yield, the specific reason for a different standard being imposed in this instance is because of the different geologic formation and unique location of these anthracite deposits.

Mrs. FENWICK. I did not ask a reason. I said, What is the difference between the two regulations, and why would the Federal regulation be so particularly onerous to Pennsylvania?

Mrs. MINK. If the gentlewoman would yield further, I would like to ask the gentleman from Pennsylvania to answer.

Mr. FLOOD. If the gentlewoman would yield, I am glad to say it is simply necessary. It is an entirely different kind of operation. It is an entirely different kind of stripping. It is an entirely different kind of mining.

Mrs. FENWICK. That is not the question I asked.

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Mr. STEIGER of Arizona yielded his time to Mrs. FENWICK).

Mrs. FENWICK. I thank the gentleman for yielding.

The question I am asking is, Why would this kill Pennsylvania anthracite? Why is it so heavy for Pennsylvania anthracite? What is the geological defense?

Mr. FLOOD. If the gentlewoman will yield further, I thought the gentlewoman from Hawaii made it pretty clear, indeed. What is the differences? It is entirely geological, because when we strip mine soft coal, we are taking

the whole side of the mountain. If we were going to do a stripping job in Pennsylvania, we have to do it differently. You do it exactly now by going down, down, down. You do not go up through a valley. You do not destroy the countryside. You do not destroy the farms or the fields. All you can do is exactly what you are doing in exactly the same place, and then you do not rape the countryside.

Mrs. FENWICK. The Federal law does not stop you from going down, down, down.

Mr. FLOOD. It is not how far we want to go.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. CARNEY).

(By unanimous consent, Mr. CARNEY yielded his time to Mr. FLOOD).

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

My name is FLOOD. I am from Pennsylvania. We mine coal there—anthracite. Not bituminous—anthracite. That is hard coal. Anthracite is mined in eight counties in north-central Pennsylvania. You do not find it in Illinois. You do not find it in California. You do not find it in Alabama. And you are not going to believe this, you do not find it in Arizona either. There you are, eight counties in north-central Pennsylvania, and we have got anthracite. Nobody else.

We are different—not by choice, but there it is. We have got heavy pitching veins and multiple veins which you do not find in the soft coal areas. We have got a very heavy rock overburden. We have been mining up there for years and years—this is not virgin land, we are on already deep mined land. We are just stripping previously strip mined areas. We just go a little deeper and remove coal you could not get a few years ago.

Pennsylvania regulates the mining and reclamation of coal with the strongest and toughest strip mine control laws in the country. The State people know what I am telling you now—they know what anthracite coal is—that it is not bituminous. And in that Pennsylvania law there are separate and distinct regulations for the control of anthracite strip mining. Separate and distinct. Because they are different.

Governor Shapp has sent each of you a telegram telling you this is so—that he personally endorses this section of the bill. Pennsylvania people know about anthracite and passed a law which controls its mining. The anthracite section of the bill before the House is in the bill not because of DAN FLOOD, or Bethlehem Steel, but because this bill is patterned in many ways after the very successful Pennsylvania law. And that law calls for and recognizes the separate and distinct nature of anthracite from bituminous.

Now I do not blame people who do not understand this difference. For years in Washington, when you say the word "coal" that means bituminous. And well it should—99.2 percent of all coal mined in the country is bituminous. They cannot even spell "anthracite" in Washington. But if you do not recognize the difference you end up with problems.

Let me tell you. I cosponsored the Federal Coal Mine Health and Safety Act.

That was in 1969. The regulations in that bill were written for bituminous coal. That was great for bituminous mines, but in the anthracite region, the regulations just did not fit. It took 5 years, but in 1974 the Interior Department set up a special anthracite task force to work out the mess. Now they have separate regulations for anthracite.

One further point. You have heard the word "exemption" used with regard to anthracite. This word "exemption" is a great word, but it just is not the truth. Sure, the anthracite industry would like an exemption from this bill, but they are not going to get one.

All that the anthracite section does is say that for those particular characteristics of anthracite which make its mining operations different than bituminous, the strict Pennsylvania law shall apply because that law recognizes and compensates for the differences in the two types of coal. That is all. We are not exempt. We are not exempt from strict reclamation standards. We are not exempt from Federal enforcement. We are not exempt from paying into the reclamation fund. We are not exempt from public participation and citizens' suits. The list goes on. And if, at any time, the Pennsylvania law is weakened, the full force of Federal regulation would apply.

There is, in truth, no exemption here. I oppose this amendment and urge my colleagues to do the same.

The CHAIRMAN. The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, I simply wanted to clarify the RECORD. The gentleman from California made a statement that this amendment with regard to anthracite was not debated by the committee before it was considered on the floor of the House. He cited the fact that all the other amendments which he described were discussed by the committee. The RECORD should be clear that the Alaska amendment was added on the floor and this was not considered by the committee before its consideration here. So in both situations, in the Alaska and the anthracite situations, both were developed after the committee bill had been reported. So it seems to me all three situations should be taken into balance. There are features with respect to anthracite mining which cannot come under the literal provisions of H.R. 25 and it is in fact very similar to the Kemmerer Mine situation where we have to deal with large open pits. H.R. 25's requirements cannot be met in these special instances and therefore we were forced to write a special section for both these areas. The committee takes the open pit Kemmerer Mine and the anthracite mine and taking them together provided exceptions for both.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL), to close the debate.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, there are two reasons why we should defeat this amendment and keep section 529 in the bill. In the first place it is a sound piece of work and soundly crafted and drafted and a soundly balanced bit of legislation.

Second, it is only a partial exemption from the environmental standards of the bill—the other provisions of the act apply—the citizen suits, Federal enforcement, permit approval and denial criteria, and so on. The environmental standards in Pennsylvania law will apply and if the State weakens such standards then the environmental standards in the Federal bill will apply.

Mr. Chairman, I call for the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. STEIGER of Arizona) there were—ayes 40, noes 32.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 248, not voting 14, as follows:

[Roll No. 60]

AYES—170

Abdnor	Flowers	Mollohan
Abzug	Flynt	Montgomery
Ambro	Forsythe	Moore
Anderson, Ill.	Frenzel	Moorhead, Calif.
Andrews, N. Dak.	Frey	Mottl
Archer	Goldwater	Myers, Pa.
Armstrong	Goodling	O'Brien
Ashbrook	Gradison	O'Hara
Bafalis	Grassley	Patten
Bauman	Gude	Perkins
Beard, Tenn.	Guyer	Pike
Bowen	Hagedorn	Poage
Breaux	Hammer-schmidt	Pressler
Brinkley	Hansen	Pritchard
Brodhead	Hastings	Quie
Broomfield	Hechler, W. Va.	Quillen
Brown, Calif.	Hicks	Regula
Brown, Mich.	Hillis	Reuss
Brown, Ohio	Hinshaw	Rhodes
Broyhill	Holland	Roberts
Buchanan	Holt	Robinson
Burke, Fla.	Holtzman	Rousselot
Burleson, Tex.	Hubbard	Ruppe
Butler	Hutchinson	Sarasin
Carter	Hyde	Satterfield
Cederberg	Ichord	Schroeder
Clancy	Jarman	Sebelius
Clausen, Don H.	Jeffords	Sharp
Clawson, Del	Johnson, Colo.	Shriver
Cochran	Jones, Tenn.	Slack
Cohen	Kasten	Smith, Nebr.
Collins, Tex.	Kelly	Snyder
Conlan	Kemp	Solarz
Conte	Ketchum	Spence
Crane	Kindness	Stanton, J. William
Daniel, Dan	Koch	Steelman
Daniel, Robert W., Jr.	Krueger	Steiger, Ariz.
Derwinski	Lagomarsino	Steiger, Wis.
Devine	Lent	Stephens
Dickinson	Lott	Stuckey
Downey	Lujan	Studds
Downing	McClory	Symms
Duncan, Tenn.	McCollister	Talcott
du Pont	McDonald	Taylor, Mo.
Early	McKinney	Thone
Edwards, Ala.	Madigan	Treen
Emery	Maguire	Vander Jagt
Erlenborn	Mann	Vander Veen
Esch	Martin	Vanik
Evans, Colo.	Mathis	Waggonner
Fenwick	Michel	Wampler
Findley	Milford	Whalen
Fithian	Miller, Ohio	Whitehurst
	Mitchell, N.Y.	Whitten
	Moffett	

Winn	Wydler	Young, Fla.
Wirth	Wylie	Young, Tex.
Wright	Young, Alaska	

NOES—248

Adams	Glaimo	Neal
Addabbo	Gibbons	Nedzi
Anderson, Calif.	Gilman	Nichols
	Ginn	Nix
Andrews, N.C.	Gonzalez	Nolan
Annunzio	Green	Nowak
Ashley	Haley	Oberstar
Aspin	Hall	Obey
AuCoin	Hamilton	O'Neill
Badillo	Hanley	Ottinger
Baldus	Hannaford	Passman
Barrett	Harkin	Patman
Baucus	Harrington	Patterson, Calif.
Beard, R.I.	Harris	Pattison, N.Y.
Bedell	Harsha	Pepper
Bell	Hayes, Ind.	Peyser
Bennett	Hays, Ohio	Pickle
Bergland	Heckler, Mass.	Preyer
Bevill	Hefner	Price
Biaggi	Heinz	Railsback
Biester	Helstoski	Randall
Bingham	Hightower	Rangel
Blanchard	Horton	Rees
Blouin	Howard	Richmond
Boggs	Howe	Riegle
Boland	Hughes	Rinaldo
Bolling	Hungate	Rodino
Bonker	Jacobs	Roe
Brademas	Jenrette	Rogers
Breckinridge	Johnson, Calif.	Roncalio
Brooks	Johnson, Pa.	Rooney
Burgener	Jones, Ala.	Rose
Burke, Calif.	Jones, N.C.	Rosenthal
Burke, Mass.	Jones, Okla.	Rostenkowski
Burlison, Mo.	Jordan	Roush
Burton, John L.	Karth	Roybal
Burton, Phillip	Kastenmeier	Runnels
Byron	Kazen	Russo
Carney	Keys	Ryan
Carr	Krebs	St Germain
Chappell	LaFalce	Santini
Chisholm	Landrum	Sarbanes
Clay	Latta	Scheuer
Cleveland	Leggett	Schneebeli
Conable	Lehman	Schulze
Conyers	Levitas	Seiberling
Corman	Litton	Shipley
Cornell	Lloyd, Calif.	Shuster
Cotter	Lloyd, Tenn.	Sikes
Coughlin	Long, La.	Simon
D'Amours	Long, Md.	Sisk
Daniels, Dominick V.	McCloskey	Smith, Iowa
	McCormack	Spellman
Danielson	McDade	Staggers
Davis	McEwen	Stanton, James V.
de la Garza	McFall	
Delaney	McHugh	Stark
Dellums	McKay	Steed
Dent	Macdonald	Stokes
Derrick	Madden	Stratton
Dingell	Mahon	Sullivan
Dodd	Matsunaga	Symington
Drinan	Mazzoli	Taylor, N.C.
Duncan, Oreg.	Meeds	Teague
Eckhardt	Melcher	Thompson
Edgar	Metcalfe	Thornton
Edwards, Calif.	Meyner	Traxler
Eilberg	Mezvinsky	Tsongas
English	Mikva	Udall
Ashleman	Miller, Calif.	Ullman
Evans, Ind.	Mineta	Van Deerlin
Fascell	Minish	Vigorito
Fish	Mink	Walsh
Fisher	Mitchell, Md.	Weaver
Flood	Moakley	White
Florio	Moorhead, Pa.	Wiggins
Foley	Morgan	Wilson, Bob
Ford, Mich.	Mosher	Wolff
Ford, Tenn.	Moss	Yates
Fountain	Murphy, Ill.	Yatron
Fraser	Murphy, N.Y.	Young, Ga.
Fulton	Murtha	Zablocki
Fuqua	Myers, Ind.	Zeferetti
Gaydos	Natcher	

NOT VOTING—14

Alexander	Hébert	Wilson, Charles H., Calif.
Casey	Henderson	
Collins, Ill.	Mills	
Diggs	Risenhoover	Wilson, Charles, Tex.
Evins, Tenn.	Skubitz	
Hawkins	Waxman	

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 306, after line 3, insert:

TITLE VI.—INDIAN LANDS PROGRAM

GRANTS TO TRIBES

SEC. 601. (a) The Secretary is authorized to make annual grants directly to any Indian tribe that applies to the Secretary for a grant to develop and administer an Indian lands program for the purpose of enabling the tribe to realize benefits from the development of its coal resources while at the same time protecting the cultural values of the tribe and the physical environment of the reservation, including land, timber, agricultural activity, surface and ground waters, and air, by the establishment of exploration, mine operating and reclamation regulations.

(b) The distribution of funds under this Act shall achieve the purposes of the Act, recognize special jurisdictional status of Indian lands and allotted lands of such tribes and preserve the power of Indian tribes to approve or disapprove surface mining and reclamation operations.

(c) Indian lands programs developed by any Indian tribe shall meet all provisions of this Act and where any provision of any tribal code, ordinance, or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides for environmental controls and regulations of surface coal mining and reclamation operations which are some stringent than the provisions of this Act or any regulation issued pursuant hereto, such tribal code, ordinance, or regulation shall not be construed to be inconsistent with this Act.

COAL LEASING

SEC. 602. The Secretary is directed to obtain written prior approval of the tribe before leasing coal under ownership of the tribe.

INDIAN LANDS ENVIRONMENTAL PROTECTION STANDARDS

SEC. 603. Not later than the end of the one-hundred-and eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performace standards based on and incorporating the provisions of title V of this Act, and establishing procedures and requirements for preparation, submission, and approval of Indian lands programs and development and implementation of Federal programs under this title. Such regulations shall be promulgated and published under the guidelines of section 501 of this Act.

APPROVAL OF PROGRAM

SEC. 604. (a) Within twenty-four months after the receipt of funding under section 601(a) of this Act, but not less than thirty months after the date of enactment of this Act, a tribe which expresses to the Secretary an intent to develop and administer an Indian lands program, giving the tribe exclusive jurisdiction over the regulation of surface coal mining and reclamation operations on lands under its jurisdiction, except as provided in section 521 and title IV of this Act shall submit an Indian lands program which demonstrates that such tribe has the capability of carrying out the provisions of this Act.

(b) The Secretary shall approve or disapprove an Indian lands program, in whole or in part, within six full calendar months after the date such Indian lands program was submitted to him.

(c) If the Secretary disapproves an Indian lands program in whole or in part, he shall notify the tribe in writing of his decision and set forth in detail the reasons therefor. The tribe shall have sixty days in which to resubmit a revised Indian lands program, or portion thereof: The Secretary shall approve or disapprove the resubmitted Indian lands program or portion thereof within sixty days from the date of resubmission.

(d) For the purpose of this section and section 504 of this Act, the inability of an Indian tribe to take any action the purpose of which is to prepare, submit, or enforce an Indian lands program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the Indian lands program subject to the injunction shall be conducted by the Indian tribe pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of section 503 and 504 shall again be fully applicable.

(e) The Secretary shall not approve any Indian lands program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of the other Federal agencies concerned with or having special expertise pertinent to the proposed Indian lands program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of an Indian lands program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the Indian lands program for the enrolled members of the tribe on its reservation; and

(4) found that the Indian tribe has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

INITIAL REGULATORY PROCEDURES

SEC. 605. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining and reclamation operations on Indian lands after the date of enactment of this Act unless such person is in compliance with existing Federal regulations governing surface coal mining on Indian lands.

(b) No later than one hundred and thirty-five days from the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect on those Indian lands on which there is surface coal mining and where the Indian tribe has expressed to the Secretary an intent to develop and administer an Indian lands program, until the Indian lands program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall be carried out pursuant to the provisions of subsections 502(f)(1), 502(f)(2), 502(f)(3), 502(f)(4), and 502(f)(5).

(c) Following the final disapproval of an Indian lands program, and prior to promulgation of a Federal program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act.

FEDERAL PROGRAM

SEC. 606. (a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement, pursuant to section 501 of this Act, a Federal program for an Indian tribe that expresses an intent to develop and administer an Indian lands program if such Indian tribe—

(1) fails to submit an Indian lands pro-

gram covering surface mining and reclamation operations by the end of the thirty month period beginning on the date of enactment of this Act;

(2) fails to resubmit an acceptable Indian lands program within sixty days of disapproval of a proposed Indian lands program: Provided, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of an Indian lands program as provided for in claude (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved Indian lands program as provided for in this Act.

If tribal compliance with clause (1) of this subsection requires an act of the tribal council or tribal legislature the Secretary may extend the period for submission of an Indian lands program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any tribal reservation or upon tribal lands not in compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. In promulgating and implementating a Federal program for a particular Indian tribe the Secretary shall take into consideration the nature of that Indian tribal reservation's terrain, climate, biological, chemical and other relevant physical conditions.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing for the enrolled members of the tribe in a location convenient to the tribe.

(c) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program pursuant to section 504(d) of this Act.

(d) An Indian tribe which has failed to obtain the approval of an Indian lands program prior to implementation of a Federal program may submit an Indian lands program at any time after such implementation pursuant to section 504 of this Act. Until an Indian lands program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

(e) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved Indian lands program. The tribal regulatory authority may review such permits to determine that the requirements of this Act and the approved Indian lands program are not being violated. If the tribal regulatory authority determines any permit to have been granted contrary to the requirements of the Act or the approved Indian lands program, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Act or approved Indian lands program.

ADMINISTRATION BY THE SECRETARY

SEC. 607. (a) At any time, a tribe may select to have its program administered by the Secretary. Upon such a request by a tribe, the Secretary shall assume the responsibility for administering the tribe's Indian lands program for that reservation.

(b) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program prepared pursuant to subsection 306(a) of this Act. Immediately following the promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not being violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act he shall so advise the permittee and provide him a reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the Federal program.

PERSONNEL

SEC. 608. (a) Indian tribes are authorized to use the funds authorized pursuant to section 601(a) of this title for the hiring of professional and technical personnel and, where appropriate, to allocate funds to legitimately recognized organizations of the tribe that are pursuing the objectives of this title, as well as hire special consultants, groups, or firms from the public and private sector, for the purpose of developing, establishing, or implementing an Indian lands program.

AUTHORIZATION PRIORITY

SEC. 609. Of the funds made available under section 714(a) of this Act, first priority on $2,000,000 for each of the fiscal years shall be for the purposes of this title.

REPORTS TO THE SECRETARY

SEC. 610. Any Indian tribe which is receiving or has received a grant pursuant to section 714(a) of this Act, shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

ENFORCEMENT

SEC. 611. For the purpose of administering an Indian lands program under this Act, a tribe shall have jurisdictional authority including the ability to require compliance with said regulations over all persons whether Indian or non-Indian engaged in surface coal mining operations and that all disputes will be adjudicated in the appropriate tribal court forum until that remedy is exhausted and then the aggrieved party has the right to a trial de novo in Federal district court in the appropriate district.

INDIAN LANDS STUDY

SEC. 612. (a) The Secretary is directed to study the question of the regulation of surface coal mining on Indian lands which will achieve the purposes of this Act and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with the Indian tribes, and may contract or give grants to Indian tribes, qualified institutions, agencies, organizations, and persons. The study report shall include proposed legislation designed to assist Indian tribes to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands.

(b) The report required by subsection (a) of this section together with draft proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than two years after the date of enactment of this Act.

(c) On and after one hundred and thirty-five days from the date of enactment of this Act, all surface coal mining operations on Indian lands wherein the tribe has not applied for a grant to develop and administer an Indian lands program pursuant to section 601 of this title, or has not selected to have its Indian lands program administered by the Secretary pursuant to section 607 of this title, shall comply with requirements at least as stringent as those imposed by 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 and the Secretary shall incorporate the requirements of such provisions in all existing and new leases for coal on Indian lands.

(d) On and after thirty months following the date of enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

(f) Any change required by subsections (c) and (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

(g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than $700,000 of the funds authorized in section 714(a) of this Act shall be reserved for this purpose.

REPORTS TO CONGRESS

SEC. 613. The Secretary shall report annually to the President and the Congress on all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. MELCHER. Mr. Chairman, this amendment provides a new title to the bill dealing with an Indian lands program. In the bill that was passed by the House last year we had such a title.

In conference the conferees opted to treat the subject on what to do with the reclamation of Indian lands if their lands were stripped for coal by having the Secretary of the Interior delegated to conduct studies on those Indian reservations where the Indian tribes asked for such a study to determine how strip mining would affect them and how to arrive at effective reclamation for their land on their reservations.

In doing so, we bumped out of the final conference bill the rather detailed Indian lands program that we have passed here in the House.

What I have done in this amendment is to offer a blending of the conference decision of having a study with those tribes that desire to have one conducted and supervised by the Secretary of the Interior on their own reservation, or they can develop an Indian lands program of their own. Briefly, this would allow them to adopt stronger standards than the minimum Federal standards set forth in the bill. It would treat them in the same way that we treat a State in the bill, where we say to the State, "You can meet these minimum Federal standards, and that is good enough; but if you want to have stronger standards, you can also do that and run your own program."

What we say in the Indian lands program, if we adopt this amendment that I am offering, is that the Indian tribes

that so elect to have stronger standards can have them, and we give them that privilege. If they do not want stronger standards, that is their privilege, too. The various Indian tribes can ask for the study or they can designate the Secretary of the Interior to supervise the Federal standards on any reclamation program involving coal strip mining on the reservations, or decide to have stronger standards to enforce on their reservations.

It is their land; Indian culture is tied close to their land, and my amendment recognizes their basic right to decide the fate of their own lands.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I thank the gentleman for yielding.

How to handle the coal underlying Indian lands has been one of the most difficult problems we faced in the history of this legislation. The gentleman from Montana has given this a great deal of attention and on several occasions has had solutions that I though would solve the problem, but this particular solution is one that we have gone over on our side, the gentlewoman from Hawaii (Mrs. MINK) and I and the gentleman from Washington (Mr. MEEDS), who chairs the Indian Affairs Committee. The chairman of our full committee, the gentleman from Florida (Mr. HALEY) chaired the Indian Affairs Subcommittee for a number of years and has an intense interest in this problem.

Mr. Chairman, as far as I am concerned, and I think I speak for most of us on our side, this is a good approach to take to conference. It gives options, it is flexible, and I am prepared to support the amendment.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Florida (Mr. HALEY), the distinguished chairman of the House Committee on Indian Affairs.

Mr. HALEY. Mr. Chairman, I thank the gentleman for yielding.

He, of course, knows of my long interest in Indian legislation.

I think this is a very good amendment, and I rise in wholehearted support of this amendment. I think it is necessary.

Mr. MELCHER. Mr. Chairman, I thank the gentleman.

I urge that the House accept the amendment and thereby endorse Indian rights to have a positive voice in the destiny of their own reservation lands if some of it is strip mined for coal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will read.

The Clerk read as follows:

TITLE VI—DESIGNATION OF LANDS UNSUITABLE FOR 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) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(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.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary designates an area of Federal lands as unsuitable for all or certain types of mining operations for minerals and materials other than coal pursuant to this section he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting from such designation, would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to title VI?

If not, the Clerk will read.

The Clerk read as follows:

TITLE VII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 701. For the purposes of this Act—

(1) "Secretary" means the Secretary of the Interior, except where otherwise described;

(2) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(3) "Office" means the Office of Surface Mining, Reclamation, and Enforcement established pursuant to title II;

(4) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof; or between points in the same State which directly or indirectly affect interstate commerce;

(5) "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percentum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by 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, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, 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;

(6) "surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this Act;

(7) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(8) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands;

(9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe;

(10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) "State program" means a program established by a State pursuant to section 503 to regulate surface coal mining and reclamation operations, on lands within such State in accord with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

(12) "Federal program" means a program established by the Secretary pursuant to section 504 to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act;

(13) "Federal lands program" means a program established by the Secretary pursuant to section 523 to regulate surface coal mining and reclamation operations on Federal lands;

(14) "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 508;

(15) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this Act;

(16) "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program;

(17) "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(18) "permit" means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

(19) "permit applicant" or "applicant" means a person applying for a permit;

(20) "permittee" means a person holding a permit;

(21) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 401;

(22) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the Earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

(23) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 515(b)(8) of this Act;

(24) "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

(25) "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 509 of this Act and shall be readily identifiable by appropriate markers on the site;

(26) "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care;

(27) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities;

(28) "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

OTHER FEDERAL LAWS

SEC. 702. (a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or any of the following Acts or with any rule or regulation promulgated thereunder, including but not limited to—

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended, the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c).

(b) Nothing in this Act shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on lands under their jurisdiction.

(c) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

SEC. 703. (a) No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein and his findings in an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subsection shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of the applicant a sum equal to the aggregate amounts of all costs and expenses (including attorneys' fees) to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(d) The Secretary shall conduct continuing evaluations of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 54 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make findings of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 704. Section 1114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the words "Department of Labor" contained in that section.

GRANTS TO THE STATES

SEC. 705. (a) The Secretary is authorized to make annual grants to any State for the

purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 40 per centum of the total costs incurred during the third and fourth years.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) 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. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

ANNUAL REPORT

SEC. 706. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this Act. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act.

SEVERABILITY

SEC. 707. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

ALASKAN SURFACE COAL MINE STUDY

SEC. 708. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine which, if any, of the provisions of this Act should be modified with respect to surface coal mining operations in Alaska.

(b) The Secretary shall report on the findings of the study to the President and Congress no later than two years after the date of enactment of this Act.

(c) The Secretary shall include in his report a draft of legislation to implement any changes recommended to this Act.

(d) Until one year after the Secretary has made this report to the President and Congress, or three years after the date of enactment of this Act, whichever comes first, the Secretary is authorized to suspend the applicability of any provision of this Act, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding enactment of this Act if he determines that it is necessary to insure the continued operation of such surface coal mining operation. The Secretary may exercise his suspension authority only after he has (1) published a notice of proposed suspension in the Federal Register and in a newspaper of general circulation in the area of Alaska in which the affected surface coal mining operation is located, and (2) held a public hearing on the proposed suspension in Alaska.

(e) There is hereby authorized to be appropriated for the purpose of this section $250,000.

STUDY OF RECLAMATION STANDARDS FOR SURFACE MINING OF OTHER MINERALS

SEC. 709. (a) The Chairman of the Council on Environmental Quality is directed to contract with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of current and developing technology for surface and open pit mining and reclamation for minerals other than coal designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation for minerals other than coal, with a primary emphasis upon oil shale and tar sands reserves. The study shall—

(1) assess the degree to which the requirements of this Act can be met by such technology and the costs involved;

(2) identify areas where the requirements of this Act cannot be met by current and developing technology;

(3) in those instances describe requirements most comparable to those of this Act which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this Act; and

(4) discuss alternative regulatory mechanisms designed to insure the achievement of the most beneficial post-mining land use for areas affected by surface and open-pit mining.

(b) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after the date of enactment of this Act: *Provided*, That with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after the date of enactment of this Act.

(c) There are hereby authorized to be appropriated for the purpose of this section $500,000.

INDIAN LANDS

SEC. 710. (a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of this Act and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with Indian tribes. The study report shall include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface mining of coal on Indian lands.

(b) The study report required by subsection (a) together with drafts of proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than January 1, 1976.

(c) On and after one hundred and thirty-five days from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsection 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(19), and 515(d) of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(d) On and after thirty months from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

(f) Any change required by subsection (c) or (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

(g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than $700,000 of the funds authorized in section 712(a) shall be reserved for this purpose.

EXPERIMENTAL PRACTICES

SEC. 711. In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 515 and 516 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums, and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 502, 522, 405(b)(3), and 710, contract authority is granted to the Secretary of the Interior for the sum of $10,000,000 to become available immediately upon enactment of this Act and $10,000,000 for each of the two succeeding fiscal years.

(b) For administrative and other purposes of this Act, except as otherwise provided for in this Act, authorization is provided for the sum of $10,000,000 for the fiscal year ending June 30, 1975, for each of the two succeeding fiscal years the sum of $20,000,000 and $30,000,000 for each fiscal year thereafter.

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 713. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximizes the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep seams; and

(2) safety and health in the application of such technologies, methods, and means.

b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $35,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

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.

(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 section (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;

(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 one hundred dollars ($100.00) per acre, whichever is less.

(f) All bids 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.

(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 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 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.

(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 to 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 December 3, 1974, of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface coal mining methods.

FEDERAL LESSEE PROTECTION

SEC. 715. In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof;

(2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this Act.

WATER RIGHTS

SEC. 716. Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any amendments to title VII?

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Title VII is the last title. We are aware of maybe a half dozen amendments, none of them very controversial, as far as I am concerned.

There have been some printed in the CONGRESSIONAL RECORD relating to this title, and if there were a limitation of time those amendments would be protected, or the sponsors who want to could have the full 5 minutes. In light of

that, Mr. Chairman, I ask unanimous consent that all debate on title VII and all debate on the bill and all amendments thereto close not later than 5:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: On page 312, after line 2, add the following new subsection (11) and renumber the succeeding subsections:

"(11) The term 'Indian lands program' means a program established by an Indian tribe pursuant to title VI to regulate surface mining and reclamation operations for coal, whichever is relevant, on Indian lands under its jurisdiction in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act."

Mr. MELCHER. Mr. Chairman, this amendment contains the identical language that was in the House-passed bill last year as that bill contained the Indian lands program. Now that we have adopted an amendment, that puts the Indian lands program back into our present bill, it is appropriate now that we reinsert this definition as to the Indian lands program in this bill.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I would ask the gentleman from Montana if it is not a fact that the proposed amendment conforms the bill so far as the amendment that was just adopted?

Mr. MELCHER. That is correct.

Mr. UDALL. Mr. Chairman, I support the amendment.

Mr. MELCHER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MELCHER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EVANS OF COLORADO

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado: on page 336, after line 7, insert the following:

PROTECTION OF WATER RIGHTS

SEC. 717. (a) In those instances in which it is determined that a proposed surface coal mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(b)(1) An owner of water rights adversely affected may file a complaint detailing the loss in quantity or quality of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 517;

(B) within 90 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water within a reasonable time in like quality, quantity, and duration if the loss is caused by the surface coal mining operations, and require the mining operator to compensate the owner of the water right for any damages he has sustained by reason of said loss; and

(D) order the suspension of the operator's permit if the operator fails to comply with any order issued pursuant to subparagraph (C).

(Mr. EVANS of Colorado asked and was given permission to revise and extend his remarks.)

Mr. EVANS of Colorado. Mr. Chairman, my amendment will strengthen the provisions protecting owners of water rights.

The first subsection would require the coal operator to either secure the written consent of all owners of water rights reasonably anticipated to be affected by the surface coal mining operation, or show evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

The second subsection allows an owner of water rights adversely affected to file a complaint with the regulatory authority detailing his loss in water quality and quantity. The regulatory agency would investigate the complaint and issue a written finding as to cause of the loss, if any, in water quality and quantity. If the mining operator is found to be at fault, the regulatory authority would order the mining operator to replace the water within a reasonable time and compensate the owner of the water right for any damages he has sustained by reason of said loss. The mining operator's permit would be suspended by the regulatory authority if he did not comply with any such order.

This amendment is moderate and a matter of simple justice. If a coal operator cannot get the written consent of an affected owner of water rights, he can still proceed if he can show evidence of a willingness and capability to provide a substitute water supply. In the West, water is essential to ranchers and farmers who depend on scarce supplies. If you deprive a man of his water, you deprive him the opportunity to earn a livelihood for himself and his family.

Without my amendments, I am afraid that this bill would be an expression of congressional judgment that the surface mining of coal should be of the highest priority ahead of other uses of land and water. In the arid and semiarid parts of the country, I believe such a conclusion would result in irretrievable loss of vast areas of agriculturally productive land.

These amendments are designed to protect the water resources of the West, but they could also have an impact reaching far beyond the western coal lands. If your State depends on water from the Missouri or Colorado River basis for municipal, industrial, or agricultural uses, you should share our concern about the possibility of diminishing the water flow and increasing the dissolved salts, chemicals, metals and sediments in these river systems. In the Colorado Basin, this affects the States of California, Arizona, Utah, and Colorado. In the Missouri Basin, this affects Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri.

Beyond that, I simply ask my eastern colleagues to heed the words of North Dakota Governor Arthur Link. Governor Link has said:

People representing the cities have as great a stake in the restoration of this land as the people of North Dakota. From those lands come the food and fiber their constituents will need long after the coal is removed.

The people I represent will remain in Colorado after the strippable coal is gone and the coal companies move elsewhere. It is my hope in sponsoring these amendments that we can help insure that our friends from other States can still come to enjoy the natural beauty and bounty of our Rocky Mountain States in the future.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I would like to ask the gentleman from Colorado a question, if I may.

Mr. EVANS of Colorado. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am inclined to support this amendment. As the gentleman from Colorado knows, the question of water rights in the West is a very sensitive one. We provide in the bill on page 221 in section 505(c) that nothing in the act shall be construed to affect water rights under existing State law. This was one of the basic compromises. We are leaving that that every State shall determine its water rights. Accepting this amendment, I would like it clearly understood that the amendment does not change section 505(c) and that there is no intention here to deprive the States of the right to determine water rights.

Mr. EVANS of Colorado. The gentleman from Arizona is absolutely correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 328, between lines 13 and 14, insert the following new subsection:

"(d) at least 60 days before any funds are obligated for any research studies, surveys, experiments or demonstration projects to be conducted or financed under this Act in any fiscal year, the Secretary in consultation with the Administrator of the Energy Research and Development Administration and the heads of other Federal agencies having the authority to conduct or finance such projects, shall determine and publish such determinations in the Federal Register that such projects are not being conducted or financed by any other Federal agency. On March 1 of each calendar year, the Secretary shall report to the Congress on the research studies, surveys, experiments or demonstration projects, conducted or financed under this Act, including, but not limited to, a statement of the nature and purpose of such project, the Federal cost thereof, the identity

and affiliation of the persons engaged in such projects, the expected completion date of the projects and the relationship of the projects to other such projects of a similar nature.

"(e) subject to the patent provisions of section 306(d) of this Act, all information and data resulting from any research studies, surveys, experiments, or demonstration projects conducted or financed under this Act shall be promptly made available to the public."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, on yesterday there was colloquy in which the gentleman from Pennsylvania (Mr. MYERS) and the gentlewoman from New Jersey (Mrs. FENWICK) raised the point that there was duplication in funds for research and development. My amendment merely tried to guarantee that the Secretary of the Interior in consultation with the Administrator of ERDA indicate and publish in the Federal Register that the projects funded are not to be conducted or financed by any other Federal agency. Further, it would provide a reporting process so that on March 1 of each calendar year the Secretary of the Interior shall report to Congress on the research studies that are financed under this act. I think this takes care of the point which was raised during yesterday's colloquy.

In addition, my amendment also insures that the results of federally funded research be made available to the public, within the limitations of the patent laws and other legislation.

Mr. STEIGER of Arizona. Mr. Chairman, I rise in opposition to the amendment.

As a matter of fact, I do so, so as not to frighten my colleague, the gentleman from West Virginia, by agreeing that I understand what my colleague is trying to do. But I would submit that on a pragmatic basis, the requirements in my friend's amendment are such that they assume that all agencies in government will read the Federal Register, which is an assumption that, of course, if they did, they would obviously accomplish nothing else. So I would simply tell my friend that there is really no way to defend against what my friend is trying to defend against.

In my view, there is no way to defend against the duplication my friend is trying to defend against. This would, indeed, require at least the employment of six or seven Federal Register readers in each agency just to comply.

I do not think my friend wants to add that burden to this economy, so I would hope we would oppose the amendment, not because of the spirit of the matter but because of the pragmatism about the realization of the fulfillment of the effort here.

Mr. HECHLER of West Virginia. Mr. Chairman, if the gentleman will yield, I hope the gentleman's position on this amendment will be followed by the usual sequential vote which indicates opposition to his position by the Committee of the Whole.

Mrs. MINK. Mr. Chairman, if the gentleman will yield, there has been much concern exhibited here about possible duplication of research. We had a section on research dealing with deep mining in the belief that a great deal of research needs to be done about mining, but in view of the concern of this House about the duplication of research which might be undertaken by ERDA, I believe the gentleman's amendment will meet this problem and will require the Secretary of the Interior to consult with ERDA and require publication in the Federal Register and also require that these contracts and grants be reported to the Congress on March 1. I believe this would meet the problems that have been raised and I support the amendment offered by the gentleman.

Mr. HECHLER of West Virginia. I welcome the support of the gentlewoman from Hawaii and I thank her for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia.

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment, a very simple little amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Beginning on page 321, line 23, strike section 708 inclustve.

Mr. HECHLER of West Virginia. Mr. Chairman, section 708 provides for a study of Alaskan surface coal mines. This study is to be directed by the Secretary of the Interior with the National Academy of Sciences and the National Academy of Engineering and is to take 2 years. The Secretary of the Interior is only authorized to apply the provisions of this act 1 year following the completion of the 2-year study.

It seems to me the subject of surface mining has been studied to death. As the gentleman from Arizona (Mr. STEIGER) knows, I took a very strong position against a special exemption for the anthracite industry. It would seem to me he should thereby support striking what is in effect special treatment in this bill for the State of Alaska. We certainly got no special treatment for the State of West Virginia and for other mountain people who suffer the most from strip mining.

This bill provides in section 708 that the Secretary is authorized to suspend the applicability of any provision of this act for 1 year following the conclusion of this study. The State of Alaska, just like any of the other 50 States, can come up with a program and its program is subject to review of course by the Secretary of the Interior. I do not see why we have to study for 2 years and then have to suspend the act for 1 additional year beyond that, although I must admit that this bill is the product of very delicate compromise among the various segments of this committee and of this Congress. But it would seem to me unreasonable to provide a very special exemption for the State of Alaska, and I urge support for this amendment, to restore fairness and equity in this case.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we tried very hard in this bill to write a national uniform coal surface mining bill. I think we succeeded. We also tried to give special consideration where there were conditions that required it. As the gentlewoman from Hawaii (Mrs. MINK) pointed out earlier, we approved special arrangements for the anthracite region of Pennsylvania.

My friend, the gentleman from Wyoming (Mr. RONCALIO) had a difficult special kind of problem in Wyoming and we wrote a section in for that.

The third area was the State of Alaska. Alaska is a different situation because of the climate, because of the very cold weather. A lot of the coal is buried under the tundra. This does not amount to very much.

Also, there is only one existing coal mine in the entire State of Alaska. Under the bill it can continue to operate. We have asked the Interior Department to work with the National Academy of Science to report back to us with respect to their problems and whether the regular provisions of this bill ought to apply.

During that time the Secretary has the right to suspend certain provisions of this bill if he holds public hearings and he determines that they are not applicable; but that only applies during the period of this study and while Congress can act.

We think we have a balanced bill here and we hope the amendment will be defeated.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from Arizona for the position he has taken and the fact that we had extensive discussion in this committee.

I do represent the State of Alaska as its only Congressman. We do have a unique problem. We have only one coal mine in production that is providing the necessary energy to an area that has a high pollution problem right now due to the lack of cheap electricity. This coal mine is a widemouth operation. Let me say to the House that under the present bill we are not sure how or if we can operate.

The gentleman from West Virginia has stated that we have studied strip mining to death, and that might be true, but we have not studied the effect that this legislation will have in Alaska. We have a law of our own in Alaska.

I am asking that this amendment, which has been adopted twice and is a fair compromise be accepted so that we can find out how to operate if these conditions should be the law. I am pleased with what the committee has done. The exemptions that have been allowed and the attempt to arrive at a justifiable and

workable bill in Wyoming has been accepted. This is an amendment that should stay in this bill. Any attempt to delete it would be doing a disservice to the State of Alaska.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman for yielding. Is it not true, as the gentleman previously stated in the presentation, that the committee did, indeed, spend a good deal of time discussing this matter, as opposed to the discussion of the anthracite exemption in the committee?

Mr. YOUNG of Alaska. We did discuss this as recently as 2 weeks ago when we reported the bill out. The gentleman from Ohio (Mr. SEIBERLING) was able to have the bill reported and it came out of the committee with very strong support.

Mr. STEIGER of Arizona. If the gentleman will yield further?

Mr. YOUNG of Alaska. Yes.

Mr. STEIGER of Arizona. I wanted to bring out very clearly, this was not a simple matter of accepting something that was just acceptable to the people of the gentleman's State of Alaska, but rather language that is acceptable to the entire committee.

Therefore, the equation with the anthracite situation is a totally improper equation.

Mr. YOUNG of Alaska. That is correct, and the committee did have a great amount of input in this session and also in the last session. I urge that the amendment of the gentleman from West Virginia be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was rejected.

Mr. ASHBROOK. Mr. Chairman, there is clearly a need to regulate surface coal mining. We can no longer afford to injure our environment without making a serious effort to repair the damage.

I cannot, however, support passage of H.R. 25, the Surface Mining Control and Reclamation Act. Rather than striking a reasonable balance between our economic necessities and our environmental concerns, H.R. 25 almost exclusively centers its attention on the environment.

Such a one-sided approach is a grave mistake. H.R. 25 would sharply reduce coal production at a time when our Nation desperately needs increased energy sources. It also would cause an increase in electricity rates and the price of thousands of consumer goods.

On many occasions I have stressed that the United States must work toward energy independence. The dangers of energy dependence were vividly brought home to us by the Arab oil producing nations. We must not rely on foreign oil supplies in the future.

If we are to achieve energy independence, however, we must spur the development of our domestic energy resources. Coal is an essential—and abundant—part of those resources. Estimates are that we have coal reserves of 200 to 400 years.

Our current coal production is approximately 600 million tons a year, half of which comes from surface mining. We need to at least double this production by 1985 in order to reach our Project Independence goals.

Unreasonable and unnecessary requirements in H.R. 25, however, would drastically reduce production. The Federal Energy Administration has predicted that this legislation could cut coal production by 31 to 187 million tons in 1975. This is almost a third of all U.S. production. By 1980 the loss could be as much as 271 million tons per year.

For every ton of coal that is not produced from domestic resources we must import about four barrels of foreign oil. Every ton that is not available because of H.R. 25 means more dependence on unreliable foreign sources.

This is not the only adverse effect, moreover. Another impact would be in the cost of electricity. Two-thirds of our coal is used in the production of electricity. This bill would sharply cut back the amount of coal available as well as make it more expensive to mine. The result would be a further increase in consumer electric bills.

Congressman UDALL, testifying on behalf of an almost identical bill last summer, stated that this legislation would add about 3 to 5 percent to the cost of electricity for an average household. The actual cost may be far higher. Electric bills are already a heavy burden without piling on needless additional costs.

Aside from increasing the cost of electricity, we also would be legislating increases in the costs of thousands of consumer goods. Most manufactured products in the Nation today require, at some point in the manufacturing process, electricity generated by coal. Manufacturers could be expected to pass these cost increases along to the consumer.

Therefore the consumer would be hurt at least twice by this legislation—in his electricity bills and in the price he has to pay for consumer goods.

Yes, legislation to regulate surface coal mining is needed. Such legislation, however, should strike a reasonable balance between the energy needs and environmental concerns of our Nation.

Mr. COHEN. Mr. Chairman, the surface mining bill before us today is an important piece of legislation which should be passed by the House without further delay. For the past 4 years, the Congress has attempted to draft a bill that will provide for America's energy needs while preserving our Nation's environment. In order to determine the extent to which these factors can be reconciled and in order to guarantee equity in the legislation, extensive hearings have been held, and both opponents and proponents have had repeated opportunities to express their views. The bill now under consideration is the product of thousands of hours of study and research by Members, committee staffs, executive agencies, industry, environmental groups, and independent consulting organizations. In my judgment, this expertise has been utilized effectively to draft sound legislation that will limit the harmful effects of strip mining without significantly affecting the price of availability of coal and other minerals.

There can be no doubt that this legislation is urgently required. We have already seen the results of reckless surface mine development in the Midwest and in Appalachia. Valuable croplands have been destroyed, topsoil has been lost, and streams have been polluted with silt and acid mine drainage. Homes have been damaged, drinking water sources have been contaminated, and the beauty of our Eastern mountains has been marred by unsightly highwalls and spoilbanks.

Mr. Chairman, as lawmakers, we should feel compelled to prevent further such offenses, especially when we know such action will not impair our ability to produce adequate amounts of coal.

The bill which we are considering today insures that the land, after mining operations are completed, will be returned to its former uses for both economic and esthetic reasons. The proposed 35 cents per ton tax on surface mined coal is only 1.8 percent of the average nationwide price for electric utility coal, but it would still generate sufficient funds for reclamation of abandoned lands, as well as those newly mined.

All of the provisions of the bill have been designed to insure that the growth of the coal mining industry, while meeting a large share of our energy needs, remains compatible with our immediate and long term environmental goals. I urge, therefore, that the House act quickly and decisively to pass this legislation as our colleagues in the Senate have already done.

Mrs. HOLT. Mr. Chairman, there are times when this Congress seems determined to aggravate the energy crisis instead of helping to alleviate it. H.R. 25, the bill to regulate strip mining, is an example of this curious tendency.

It is almost identical to the legislation which the President vetoed late last year for very sound reasons. It would place excessive and unwarranted handicaps on the ability to mine our country's vast coal reserves, which constitute our best short-range hope for relieving our dependence on foreign oil.

This legislation, therefore, runs contrary to our national interest at a grave time in American history. We are in economic trouble, and an expanding coal industry would provide employment to many thousands of Americans who otherwise face the desperate experience of unemployment, but this legislation would severely restrict the growth of the coal industry.

The legislation also fails on other grounds. It ignores the responsibility and excellent work done by the States with regulation of mining to protect the environment.

Mr. Chairman, for all the reasons mentioned above, I must vote against this bill.

Mr. WAMPLER. Mr. Chairman, I rise in opposition to the bill, H.R. 25, the Surface Mining Control and Reclamation Act of 1975.

During the course of the debate on this bill and the amendments that have been offered to it, I have placed before the Committee of the Whole House my reasons for opposing the various provisions of the bill and the detrimental effects they would have on the economy and the people of southwestern Virginia.

In urging a vote against this bill I ask each Member of the House to consider some of the communications I have received in the last several days from the coal surface miners themselves, the workers who haul the coal from the mines to the railheads, and some of the small businesses that mine the coal, all of whom will be directly affected by passage of this legislation. The following telegrams show their opposition to this bill:

CLINTON, VA., *March 17, 1975.*

Hon. Congressman WAMPLER,
House of Representatives,
Capitol Hill, D.C.:

Passage of House bill 25 to control stripping of coal will in effect ban this industry in Southwest Virginia, causing wide spread unemployment in the Appalachia region that have had so much of a problem over the years as a depressed area. Your help in helping us who needed so much in times that are already so hard in the United States will be appreciated. The stripping of coal does not in any way create a health problem, but brings good help to the employees of this industry that is so much less dangerous than underground mining.

Employees of Monahan Mining Inc., Employees JWT Trucking, Inc., Employees of Julia N. Coal Co., Employees of Charlie Trucking, Inc., Employees The Big C Coal Company, Employees Sylvania Ann Coal, Inc., Employees of C&K Trucking Co., Employees of G and M Trucking Inc., Employees Tom V Mining, Inc., Employees K E Mo Mining Co.

STERLING MINING CORP.,
Wise, Va., March 17, 1975.

Washington, D.C.:

Urge take action to defeat H.R. 25. Forty-five people would be unemployed from passage of H.R. 25.

HERBERT J. MCCELLAND.

PITTSTON COAL CO.,
Saint Paul, Va., March 11, 1975.

Hon. WILLIAM C. WAMPLER,
House of Representatives, Capitol Hill, District of Columbia:

I strongly urge you to vote to send the proposed surface mining bill back to committee. In its present form House bill 25 contains provisions limiting the coal industries abilities to alleviate the energy shortage. It is in the national interest that responsible industry and other spokesmen have an opportunity to provide the testimony and evidence necessary for Congress to reach a reasoned conclusion in a deliberative manner. The deep coal mining industry cannot absorb the tonnage that will be lost by the enactment of this legislation. The direct consequences will be that desperately needed metallurgical coal will find its way to the utility market. This will create a serious shortage in the steel industry, and by-product industry and increase the cost of coal to utilities in Virginia.

N. T. CAMICIA,
President and Chief Executive.

Mr. Chairman, all of us want to protect our environment, but not at the expense of our working people. All of us want a beautiful America, but not at the loss of vital coal resources and higher energy costs to our consumers, which this bill mandates.

This legislation is another example of environmental overkill and I urge each of you to vote against its passage.

Mr. HECHLER of West Virginia. Mr. Chairman, it is agonizing to weigh the advantages and disadvantages of this bill.

H.R. 25 fails to protect the people in mountain areas, where strip mining and the law of garvity send soil and spoil cascading down the slopes into people's yards, polluting their water supply, and causing irreparable damages. When compared to existing State regulatory laws, it falls short of requiring standards as tough as those found in the best of State laws—which themselves are a far cry from effective legislation. The existing legislation in Pennsylvania, Ohio, and Montana appears to be stronger than H.R. 25.

I have circulated to my fellow Members of the House of Representatives an analysis of the serious weaknesses at the time H.R. 25 was reported to the House, along with specific strengthening amendments necessary to make this legislation even minimally effective. I indicated I would vote against the pending strip mining bill, unless these strengthening amendments were included. President Ford and some Members, including the news media, have characterized H.R. 25 as a tough, strict piece of legislation. This is simply not so. Even with some strengthening amendments, it is still a basically weak piece of legislation.

H.R. 25 sets up a disastrous administrative structure which virtually insures that even the weak, loophole-filled standards drafted into this bill will be difficut to enforce to protect the land and the people. The interim period—time before States take full control—is to be supervised by the production-oriented Department of the Interior, the same Department of the Interior which has opposed the legislation and specifically attacked the idea that the Federal Government should control any part of the enforcement of the law. Once States have submitted their programs and received approval from Interior, the individual States take over administration and enforcement of the law. The Federal Government role is limited to backup enforcement, once again delegated to the Interior Department.

The key factor in bringing the strip mining issue before Congress has been the dismal failure of State regulatory efforts. Yet this bill gives these same States control—West Virginia for example rejected only 4 of 402 applications for strip mining permits during 1974. The only way to get any kind of effective enforcement is to pass a straight federally controlled bill granting full authority to the Environmental Protection Agency, which has extensive experience in water quality control, so essential to controlling the damage of strip mining.

Beyond this disastrous administrative setup, H.R. 25 has many additional flaws:

It only protects the rights of the surface landowner in cases where the coal is federally owned. It should require the written consent of the surface owner in all cases before strip mining can begin and should include protection for tenants;

It allows variances from the requirement to restore to original contour and to prevent dumping of spoil on the downslope for mountaintop removal operations, one of the most environmentally destructive techniques—section 515(c);

It contains an exception to the prohibition on dumping spoil on the downslope, for an undefined "initial block or short linear cut"—section 515(d)(1)—this could in effect allow wholesale dumping of spoil on the downslope resulting in landslides, erosion, sedimentation, and so forth. In recent mark-up the committee alleviated the problem slightly by requiring that dumping be "temporary" but this does not go far enough. My amendment to strengthen this provision was rejected;

The water quality control standards are poorly drafted and contain weak phrases such as "minimize the disturbance to the prevailing hydrologic balance" and "avoiding acid or other toxic mine drainage"—section 515(b)(10)—rather than clearly calling for the "prevention" of such drainage;

The bill fails to provide adequate protection for aquifers—there is no prohibition on mining coal seams which serve as aquifers;

Restrictions on mining near homes, cemeteries, and roads are weak—if the operator holds a "valid existing right" he can then ignore the restrictions—section 522(e)(5);

Bill fails to prohibit strip mining on national grasslands, and only protects national forests. It is unfortunate the strengthening amendments to these sections were rejected;

Standards for controlling the surface effects of underground mines are loaded with qualifying phrases such as "to the extent economically feasible" and "to the extent practicable"—section 516(b);

The reclamation fee, while a sound concept, does not adequately deal with the need for a differential tax on strip and deep mined coal to help equalize the costs between them—present differential is 35 cents strip—10 cents deep—section 401(d)—the earlier Seiberling-Dent proposals would have made it $1.50 to $3.50 strip versus 25 cents deep;

The preamble to the bill sets the tone, it states the purpose as "minimize so far as practicable the adverse social, economic, and environmental effects of such mining operations"—section 101(d);

The bill exempts anthracite strip mining from the environmental protection standards, instead requiring only compliance with existing State laws;

Bill initially failed to prohibit strip mining of alluvial valley floors—river valleys—in the Western States, but I am pleased that the Evans amendment cured this defect.

Nevertheless, it is quite clear to me that this bill is unacceptable in its present form, because it raises false hopes—particularly among the people of the mountains who have suffered the most damage from strip mining.

I indicated that I felt the following amendments were necessary in order to strengthen the bill sufficiently to make it effective and worth supporting:

First. No new permits for mining on steep slopes above 20 degrees—including mountaintop removal techniques—after the date of enactment and all existing steep slope operations—20 degrees—

halted at the end of the interim period—30 months. Spellman amendment rejected.

Second. No strip mining in alluvial valley floors—river valleys—in the Western States. Evans amendment adopted.

Third. Shift the Federal role in enforcement from the Department of the Interior to the Environmental Protection Agency. Dingell and Ottinger amendments rejected.

Fourth. Prohibit the use of coal wastes, fines and slimes as construction materials in coal waste impoundments. Hechler amendment adopted.

Fifth. Prohibit the dumping of the first cut in steep slope operations during the interim period—before amendment (1) takes effect for existing operations on steep slopes. Hechler amendment rejected.

Sixth. Prohibit strip mining in national grasslands. Blouin amendment rejected.

Seventh. Require the burial and compaction of toxic materials. Gude amendment adopted.

The most important amendment to the bill was the Spellman amendment, which unfortunately was rejected. Once this steep slope amendment was defeated, I felt obliged to vote against H.R. 25, despite some good provisions which were added on the floor.

The CHAIRMAN. Are there additional amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 25) 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, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced the ayes appeared to have it.

Mr. UDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 86, not voting 13, as follows:

[Roll No. 61]

YEAS—333

Abdnor	Edwards, Ala.	Lloyd, Calif.
Abzug	Edwards, Calif.	Lloyd, Tenn.
Adams	Eilberg	Long, La.
Addabbo	Emery	Long, Md.
Ambro	English	Lujan
Anderson, Calif.	Erlenborn	McClory
	Esch	McCloskey
Anderson, Ill.	Eshleman	McCormack
Andrews, N.C.	Evans, Colo.	McDade
Andrews, N. Dak.	Evans, Ind.	McFall
	Fascell	McHugh
Annunzio	Fenwick	McKay
Armstrong	Findley	McKinney
Ashley	Fish	Macdonald
Aspin	Fisher	Madden
AuCoin	Fithian	Madigan
Badillo	Flood	Maguire
Bafalis	Florio	Mann
Baldus	Flowers	Martin
Barrett	Foley	Matsunaga
Baucus	Ford, Mich.	Mazzoli
Beard, R.I.	Ford, Tenn.	Meeds
Bedell	Forsythe	Melcher
Bell	Fountain	Metcalfe
Bennett	Frenzel	Meyner
Bergland	Frey	Mezvinsky
Biaggi	Fulton	Mikva
Biester	Fuqua	Miller, Calif.
Bingham	Gaydos	Miller, Ohio
Blanchard	Giaimo	Mineta
Blouin	Gibbons	Minish
Boggs	Gilman	Mink
Boland	Goodling	Mitchell, Md.
Bolling	Gradison	Mitchell, N.Y.
Bonker	Grassley	Moakley
Brademas	Green	Moffett
Breaux	Gude	Mollohan
Breckinridge	Hagedorn	Moorhead, Calif.
Brinkley	Haley	
Brodhead	Hall	Moorhead, Pa.
Brooks	Hamilton	Morgan
Broomfield	Hanley	Mosher
Brown, Calif.	Hannaford	Moss
Brown, Mich.	Harkin	Mottl
Brown, Ohio	Harrington	Murphy, Ill.
Broyhill	Harris	Murphy, N.Y.
Buchanan	Harsha	Murtha
Burgener	Hastings	Myers, Pa.
Burke, Calif.	Hawkins	Natcher
Burke, Fla.	Hayes, Ind.	Neal
Burke, Mass.	Hays, Ohio	Nedzi
Burlison, Mo.	Heckler, Mass.	Nichols
Burton, John	Hefner	Nix
Burton, Phillip	Heinz	Nolan
Carney	Helstoski	Nowak
Carr	Henderson	Oberstar
Carter	Hicks	Obey
Chappell	Hightower	O'Brien
Chisholm	Hillis	O'Hara
Clancy	Hinshaw	O'Neill
Clausen, Don H.	Holland	Ottinger
	Holtzman	Patten
Clay	Horton	Patterson, Calif.
Cleveland	Howard	Pattison, N.Y.
Cohen	Howe	Pepper
Conte	Hubbard	Perkins
Conyers	Hughes	Peyser
Corman	Hungate	Pickle
Cornell	Jacobs	Pike
Cotter	Jeffords	Pressler
Coughlin	Johnson, Colo.	Preyer
D'Amours	Johnson, Pa.	Price
Daniels, Dominick V.	Jones, Ala.	Pritchard
	Jones, N.C.	Quie
Danielson	Jordan	Railsback
Delaney	Karth	Rangel
Dellums	Kasten	Rees
Dent	Kastenmeier	Regula
Derrick	Kelly	Reuss
Devine	Keys	Richmond
Diggs	Koch	Rinaldo
Dingell	Krebs	Rodino
Dodd	Krueger	Roe
Downey	LaFalce	Rogers
Drinan	Lagomarsino	Roncalio
Duncan, Oreg.	Leggett	Rooney
du Pont	Lehman	Rose
Early	Lent	Rosenthal
Eckhardt	Levitas	Rostenkowski
Edgar	Litton	Roush
Roybal	Staggers	Vander Veen
Ruppe	Stanton, J. William	Vanik
Russo		Vigorito
Ryan	Stanton, James V.	Walsh
St Germain		Weaver
Santini	Stark	Whalen
Sarasin	Steed	White
Sarbanes	Steelman	Whitehurst
Scheuer	Steiger, Wis.	Wiggins
Schneebeli	Stratton	Wilson, Bob
Schroeder	Stuckey	Winn
Schulze	Studds	Wirth
Seiberling	Sullivan	Wolff
Sharp	Symington	Wright
Shipley	Talcott	Wydler
Shriver	Taylor, N.C.	Wylie
Shuster	Thompson	Yates
Sikes	Thone	Yatron
Simon	Traxler	Young, Fla.
Sisk	Tsongas	Young, Ga.
Smith, Iowa	Udall	Zablocki
Solarz	Ullman	Zeferetti
Spellman	Van Deerlin	
Spence	Vander Jagt	

NAYS—86

Archer	Guyer	Myers, Ind.
Ashbrook	Hammer-schmidt	Passman
Bauman		Patman
Beard, Tenn.	Hansen	Poage
Bevill	Hechler, W. Va.	Quillen
Bowen	Holt	Randall
Burleson, Tex.	Hutchinson	Rhodes
Butler	Hyde	Roberts
Byron	Ichord	Robinson
Cederberg	Jarman	Rousselot
Clawson, Del	Jenrette	Runnels
Cochran	Johnson, Calif.	Satterfield
Collins, Tex.	Jones, Okla.	Sebelius
Conable	Jones, Tenn.	Slack
Conlan	Kazen	Smith, Nebr.
Crane	Kemp	Snyder
Daniel, Dan	Ketchum	Steiger, Ariz.
Daniel, Robert W., Jr.	Kindness	Stephens
	Landrum	Symms
Davis	Latta	Taylor, Mo.
de la Garza	Lott	Teague
Derwinski	McCollister	Thornton
Dickinson	McDonald	Treen
Downing	McEwen	Waggonner
Duncan, Tenn.	Mahon	Wampler
Evins, Tenn.	Mathis	Whitten
Flynt	Michel	Young, Alaska
Ginn	Milford	Young, Tex.
Goldwater	Montgomery	
Gonzalez	Moore	

NOT VOTING—13

Alexander	Riegle	Wilson, Charles H., Calif.
Casey	Risenhoover	
Collins, Ill.	Skubitz	
Fraser	Stokes	Wilson, Charles, Tex.
Hébert	Waxman	
Mills		

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Charles H. Wilson of California for, with Mr. Hébert against.

Mr. Stokes for, with Mr. Casey against.

Until further notice:

Mr. Alexander with Mr. Waxman.

Mr. Fraser with Mr. Charles Wilson of Texas.

Mr. Riegle with Mr. Risenhoover.

Mrs. Collins of Illinois with Mr. Mills.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADDITIONAL HOUSE AMENDMENT

One additional amendment was adopted on the House floor, which is not included in the attached copy of the bill as passed. The amendment is as follows, and should be inserted on page 8 under Section 508, Reclamation Plan Requirements, as a new subsection 508(a)(5):

> (5) a detailed description of the proposed revegetation plan, including the identification of plant species and appropriate assurances that viable seeds will be available in sufficient quantities to ensure that the proposed revegetation plan will be achieved in compliance with the proposed timetable for reclamation;

H.R. 25, AS PASSED BY THE HOUSE OF REPRESENTATIVES MARCH 18, 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1975".

TABLE OF CONTENTS

TITLE I—STATEMENT OF FINDINGS AND POLICY

FINDINGS

SEC. 101. The Congress finds and declares that—

(a) extraction of coal and other minerals from the earth can be accomplished by various methods of mining, including surface mining;

(b) coal mining operations presently contribute significantly to the Nation's energy requirements; surface coal mining constitutes one method of extraction of the resource; the overwhelming percentage of the Nation's coal reserves can only be extracted by underground mining methods, and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry;

(c) many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources;

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

(e) because of the diversity in terrain, climate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States;

(f) there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground coal mining, on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality;

(g) while there is a need to regulate surface mining operations for minerals other than coal, more data and analyses are needed to serve as a basis for effective and reasonable regulation of such operations;

(h) surface and underground coal mining operations affect interstate commerce, contribute to the economic well-being, security, and general welfare of the Nation and should be conducted in an environmentally sound manner; and

(i) the cooperative effort established by this Act is necessary to prevent or mitigate adverse environmental effects of present and future surface coal mining operations.

PURPOSES

SEC. 102. It is the purpose of this Act to—

(a) establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations and surface impacts of underground coal mining operations;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

(c) assure that surface coal mining operations are not conducted where reclamation as required by this Act is not feasible;

(d) assure that surface coal mining operations are so conducted as to protect the environment;

(e) assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations;

(f) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided and while protecting the environment and agricultural productivity,

(g) assist the States in developing and implementing a program to achieve the purposes of this Act;

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

(i) assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act;

(j) encourage the full utilization of coal resources through the development and application of underground extraction technologies;

(k) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

(l) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the fields of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in various States; and

(m) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through effective control of surface coal mining operations.

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") under the Assistant Secretary for Land and Water Resources.

(b) The Office shall have a Director 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, shall be transferred to the Office.

(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 subpenas, 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;

(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 this Act and, at the same time, reflect local requirements and local environmental and agriculture 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 pursuant 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.

(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 person or persons are not needed for such inspections under the 1969 Act.

(e)(d) 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.

(f)(e) 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, except that en employee may own a total of not more than 100 shares of stock of companies which have a direct or indirect interest in such operations and which are listed on any securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Act of June 6, 1934 (48 Stat. 885: 15 U.S.C. 78f) : *Provided*, That such employee shall file with the Director a written statement concerning such ownership

TITLE III—STATE MINING AND MINERAL RESOURCES AND RESEARCH INSTITUTE

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

SEC. 301. (a) There are authorized to be appropriated to the Secretary of the Interior sums adequate to provide for each participating State $200,000 for fiscal year 1975, $300,000 for fiscal year 1976, and $400,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, or center (hereinafter referred to as "institute") at one public college or university in the State, which has in existence at the time of enactment of this title a school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction or which establishes such a school of mines, or division, or department subsequent to the enactment of this title and which school of mines, or division or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determine a college or university to have an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction wherein education and research in the minerals engineering fields are being carried out and wherein at least fourfulltime permanent faculty members are employed: *Provided*, That—

(1) such moneys when appropriated shall be made available to match, on a dollar-for-dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute;

(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Governor of the State; and

(3) where a State does not have a public college or university with an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction, said advisory committees may allocate the State's allotment to one private college or university which it determines to have an eligible school of mines, or division, or department as provided herein.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college university with which it is affiliated to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments, and training may include, without being limited to exploration; extraction; processing; development; production of mineral resources mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of the Federal and State governments, and other, and to avoid any undue displacement of mineral engineers and scientists elsewhere engaged in mining and mineral resources research.

RESEARCH FUNDS TO INSTITUTES

SEC. 302. (a) There is authorized to be appropriated annually for seven years to the Secretary of the Interior the sum of $15,000,000 in fiscal year 1975, said sum increased by $2,000,000 each fiscal year thereafter for six years, which shall remain available until expended. Such moneys when appropriated shall be made available to institutes to meet the necessary expenses for purposes of:

(1) specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes, and

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which may be deemed desirable and are not otherwise being studied.

(b) Each application for a grant pursuant to subsection (a) of this section shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the estimated costs, the importance of the project to the Nation, region, or State concerned, and its relation to other known research projects theretofore pursued or being pursued, and the extent to which it will provide opportunity for the training of mining and mineral engineers and scientists, and the extent of participation by nongovernmental sources in the project.

(c) The Secretary shall insofar as it is practicable, utilize the facilities of institutes designated in section 301 of this title to perform such special research, authorized by this section, and shall select the institutes for the performance of such special research on the basis of the qualifications without regard to race or sex of the personnel who will conduct and direct it, and on the basis of the facilities available in relation to the particular needs of the research project, special geographic, geologic, or climatic conditions within the immediate vicinity of the institute in relation to any special requirements of the research project, and the extent to which it will provide opportunity for training individuals as mineral engineers and scientists. The Secretary may designate and utilize such portions of the funds authorized to be appropriated by this section as he deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) No grant shall be made under subsection (a) of this section except for a project approved by the Secretary of the Interior and all grants shall be made upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

(e) No portion of any grant under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

FUNDING CRITERIA

SEC. 303. (a) Sums available to institutes under the terms of sections 301 and 302 of this title shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields; set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will supplement and, to the extent practicable increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds; have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursement on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of an institute under the provisions of this title shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) Moneys appropriated pursuant to this title shall be available for expenses for research, investigations, experiments, and training conducted under authority of this title. The institutes are hereby authorized and encouraged to plan and conduct programs under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

SEC. 304. (a) The Secretary of the Interior is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this title, participate in coordinating research initiated under this title by the institutes, indicate to them such lines of inquiry as to him seem most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) On or before the 1st day of July in each year after the passage of this title, the Secretary shall ascertain whether the requirements of section 303(a) have been met as to each institute and State.

(c) The Secretary sahll make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this title. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reasons therefor.

AUTONOMY

SEC. 305. Nothing in this title shall be constructed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

MISCELLANEOUS PROVISIONS

SEC. 306. (a) The Secretary of the Interior shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources of State and local governments, and of private institutions and individuals to assure that the programs authorized in this title will supplement and not duplicate established mining and minerals research programs, to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and minerals research, having due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this title, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this title is intended to give or shall be construed as giving the Secretary of the Interior any authority over mining and mineral resources research conducted by any other agency of the Federal Government, or as repealing, superseding, or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with mining and mineral resources.

(c) Contracts or other arrangements for mining and mineral resources research work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3684 of the Revised Statutes (31 U.S.C. 529) when, in the judgment of the Secretary of the Interior, advance payments of initial expense are necessary to facilitate such work.

(d) No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act unless all uses, products, processes, patents, and other developments resulting therefrom with such exception or limitation, if any, as the Secretary may find necessary in the public interest, be available promptly to the general public. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent. There are authorized to be appropriated such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under the provisions of this Act and for administrative planning and direction, but such appropriations shall not exceed $1,000,000 in any fiscal year.

CENTER FOR CATALOGING

SEC. 307. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of Government, colleges, universities, private institutions, firms and individuals as may make such information available.

INTERAGENCY COOPERATION

SEC. 308. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include—

(a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research.

(b) identification and elimination of duplication and overlap between two or more agency programs;

(c) identification of technical needs in various mining and mineral resources research categories;

(d) recommendations with respect to allocation of technical effort among the Federal agencies;

(e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort; and

(f) actions to facilitate interagency communication at management levels.

ADVISORY COMMITTEE

SEC. 309. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of—

(1) the Director, Bureau of Mines, or his delegate, with his consent;

(2) the Director of the National Science Foundation, or his delegate, with his consent;

(3) the President, National Academy of Sciences, or his delegate, with his consent;

(4) the President, National Academy of Engineering, or his delegate, with his consent;

(5) the Director, United States Geological Survey, or his delegate, with his consent; and

(6) not more than four other persons who are knowledgeable in the fields of mining and mineral resources research, at least one of whom shall be a representative of working coal miners.

(b) The Secretary shall designate the Chairman of the Advisory Committee. The Advisory Committee shall consult with, and make recommendations to, the Secretary of the Interior on all matters involving or relating to mining and mineral resources research and such determinations as provided in this title. The Secretary of the Interior shall consult with, and consider recommendations of, such Committee in the conduct of mining and mineral resources research and the making of any grant under this title.

(c) Advisory Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary, but not in excess of the maximum rate of pay for grade GS–18 as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED COAL 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 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 limitation.

(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 thirty-five cents per ton of coal produced by surface coal mining and 10 cents per ton of coal produced by underground mining, or 10 per centum of the value of the coal at the mine, 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, whichever is less.

Such fee, with respect to coal produced after the date of enactment of this Act and before January 1, 1976, shall be paid not later than the end of the first calendar quarter of 1976, and thereafter shall be paid not later than the end of the calendar quarter following the calendar quarter in which the coal was produced in the period beginning January 1, 1976, and ending ten years after the date of enactment of this Act unless extended by an Act of Congress. At the end of each three-year period following the date of enactment of this Act, the Secretary shall adjust the fee to reflect any change in the cost of living index since the beginning of such three-year period ; *Provided, however*, That any operator of a coal mining operation who is liable under any law of the United States for payments to any Federal fund for the reclamation of coal-mined land may take as a credit against the amount of such payment due in any year the amount of any reclamation fee or severance tax for abandoned mined lands paid to the State during that year. Such credits shall not exceed one-half of the amount payable to the United States in any year.

(1) The term 'reclamation fee' includes any fee, license, permit, or other charge for the purpose of reclaiming, rehabilitating, revegetating, reforesting, or otherwise repairing lands eligible under section 403.

(2) The term 'severance tax' includes any tax, fee, or levy charged for or applied to the extraction or severance of coal from the ground for purposes in section 403.

(3) Funds credited pursuant to this section shall be considered as part of the funds to be spent in that State by the Secretary as provided in subsection 3(e).

(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 recommendation of the Governor of that State or 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.

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds for the reclamation of previously mined areas 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 conservation of land and water resources;

(c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conversation 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 program methods and techniques in all areas of the United States.

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 abandonment 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 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, recreation resources, and agricultural productivity, of such lands. Such agreements shall be made by the Secretary 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.

(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 160 acres of land occupied by such owner including water rights owners, resident or tenant, or on not more than 160 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.

(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.

(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 hereby declares that the 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 acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell 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, including reclamation easements, 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 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) For the purposes of this section, when the Secretary seeks to acquire an interest in land or mineral rights, and cannot negotiate an agreement with the owner of such interest or right he shall request the Attorney General to file a condemnation suit and take interest or right, following a tender of just compensation awarded by a jury to such person. When the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost or magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health, or to property, the Secretary may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(4) For the purposes of this section, when the Secretary takes action to acquire an interest in land and cannot determine which person or persons hold title to such interest or rights, the Secretary shall request the Attorney General to file a condemnation suit, and give notice, and may take such interest or rights immediately upon payment into court of such amount as the Secretary shall estimate to be the fair market value of such interest or rights. If a person or persons establishes title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Secretary shall pay any further amount that may be agreed to pursuant to negotiations or awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Secretary and be deposited in the fund.

(5) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to transfer such lands to the Secretary to be reclaimed 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 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 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 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.

(b)(1) The Secretary is authorized to use money in the 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.

(2) The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance maney 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 purposes of this subsection, without regard to the provisions of section 403, in any area experiencing a rapid development of its energy resources which the Secretary has determined does not have adequate housing facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health or safety. The Secretary, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health or safety.

(b) 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 meet the purposes of this section.

(c) The Secreteary 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, and annually thereafter, the Secretary shall report to the Congress 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.

TITLE V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

ENVIRONMENTAL PROTECTION STANDARDS

SEC. 501. Not later than the end of the one-hundred-and-eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions of title V and establishing procedures and requirements for preparation, submission, and approval of State programs and development and implementation of Federal programs under this title. Such regulations shall not be promulgated and published by the Secretary until he has—

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than forty-five days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857); and

(C) held at least one public hearing on the proposed regulations.

The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

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 regulatory authority.

(b) All surface coal mining operations on lands on which such operations are regulated by the State which commence operations pursuant to a permit issued on or after 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 hundred and thirty-five days 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.

(d) Upon the request of the permit applicant or permittee subsequent to a written finding by the regulatory authority and under the conditions and procedures set forth in subsection 515(c), the regulatory authority may grant variances from the requirement to restore to approximate original contour set forth in subsection 515(b)(3) and 515(d).

(e) Not later than twenty months from the date of enactment of this Act, all operators of surface coal mines in expectation of operating such mines after the date of approval of a State program, or the implementation of a Federal program, shall file an application for a permit with the regulatory authority, such application to cover those lands to be mined after the date of approval of the State program. The regulatory authority shall process such applications and grant or deny a permit within six months after the date of approval of the State program, but in no case later than thirty months from the date of enactment of this Act.

(f) No later than one hundred and thirty-five days from the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State in which there is surface coal mining until the State program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall—

(1) include inspections of surface coal mine sites which shall be made on a random basis (but at least one inspection for every site every three months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsection (b) above. The Secretary shall order any necessary enforcement action to be implemented pursuant to the Federal enforcement provision of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of section (b) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface ocal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such persons when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

(3) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis;

(4) provide that the State regulatory agency file with the Secretary and with a designated Federal office centrally located in the country or area in which the inspected surface coal mine is located copies of inspection reports made;

(5) provide that moneys authorized by section 714 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the States for conducting those inspections in which the standards of this Act are enforced and for the administration of this section.

(g) Following the final disapproval of a State program, and prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act.

STATE PROGRAMS

SEC. 503. (a) Each State in which there is or may be conducted surface coal mining operations, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in section 521 and title IV of this Act shall submit to the Secretary, by the end of the eighteen-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through—

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspension, revocation, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulation of surface coal mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 522;

(6) establishment, for the purposes of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations.

(b) The Secretary shall not approve any State program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175), and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the State program within the State; and

(4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

The Secretary shall approve or disapprove a State program, in whole or in part, within six full calendar months after the date such State program was submitted to him.

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program, or portion thereof. The Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

(d) For the purposes of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit, or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of section 503 and 504 shall again be fully applicable.

FEDERAL PROGRAMS

SEC. 504. (a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement a Federal program for a State if such State—

(1) fails to submit a State program covering surface coal mining and reclamation operations by the end of the eighteen-month period beginning on the date of enactment of this Act;

(2) fails to resubmit an acceptable State program within sixty days of disapproval of a proposed State program: *Provided*, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved State program as provided for in this Act.

If State compliance with clause (1) of this subsection requires an act of the State legislature the Secretary may extend the period for submission of a State program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any State not in compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. In promulgating and implementing a Federal program for a particular State the Secretary shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions.

(b) In the event that a State has a State program for surface coal mining, and is not enforcing any part of such program, the Secretary may provide for the Federal enforcement, under the provisions of section 521, of that part of the State program not being enforced by such State.

(c) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing in the affected State.

(d) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines any permit to have been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable opportunity

for submission of a new application and reasonable time to conform on-going surface mining and reclamation operations to the requirements of the Federal program.

(e) A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 503(b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 503(a) (1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

(f) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine that the requirements of this Act and the approved State program are not violated. If the State regulatory authority determines any permit to have been granted contrary to the requirements of this Act or the approved State program, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of this Act or approved State program.

(g) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface mining and reclamation operations subject to this Act shall, insofar as they interfere with the achievement of the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program.

(h) Any Federal program shall include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation.

STATE LAWS

SEC. 505. (a) No State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this Act.

(b) Any provision of any State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operations than do the provisions of this Act or any regulation issued pursuant thereto shall not be construed to be inconsistent with this Act. Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act.

(c) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

PERMITS

SEC. 506. (a) On and after six months from the date on which a State program is approved by the Secretary, pursuant to section 503 of this Act, or on and after six months from the date on which the Secretary has promulgated a Federal program for a State not having a State program pursuant to section 504 of this Act, no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 502 of this Act, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this Act, but the initial administrative decision has not been rendered.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years and shall be nontransferable: *Provided*, That a successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

(c) A permit shall terminate if the permittee has not commenced the surface coal mining and reclamation operations covered by such permit within three years of the issuance of the permit

provided that with respect to coal to be mined for use in a synthetic fuel facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel facility is initiated.

(d)(1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holder of the permit may apply for renewal and such renewal shall be issued, subsequent to public hearing upon the following requirements and written finding by the regulatory authority that—

(A) the terms and conditions of the existing permit are being satisfactorily met;

(B) the present surface coal mining and reclamation operation is in full compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

(C) the renewal requested does not jeopardize the operator's continuing responsibility on existing permit areas;

(D) the operator has provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 509; and

(E) any additional revised or updated information required by the regulatory authority has been provided. Prior to the approval of any extension of permit the regulatory authority shall provide notice to the appropriate public authorities.

(2) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for revision of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this Act.

(3) Any permit renewal shall be for a term not to exceed the period of the original permit established by this Act. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

APPLICATION REQUIREMENTS

SEC. 507. (a) Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee or portion thereof as determined by the 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 regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

(b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and address of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral) to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(2) the names and addresses of the owners of record of all surface and subsurface areas within five hundred feet of any part of the permit area;

(3) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification;

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record or beneficially either alone or with associates, 10 per centum or more of any class of stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which subsequent to 1960 has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) a copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(7) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) evidence of the applicant's legal right to enter and commence surface mining operations on the area affected;

(10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding trea so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.

(12) when requested by the regulatory authority, the climatological factors that are peculiar to the locality of the land to be

affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges.

(13) an accurate map or plan to an appropriate scale clearly showing (A) the land to be affected as of the date of application and (B) all types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. Such a map or plan shall among other things specified by the regulatory authority show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area;

(14) cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist (when specific subsurface information is deemed essential and requested by the regulatory authority 'or other qualified personnel at State universities),

showing pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings or any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facilities; constructed or natural drainways and the location of any discharges to any suface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(15) a statement of the results of test borings or core samplings from the permit area, including logs of the drill holes; the thicknes of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined; and

(16) information pertaining to coal seams, test borings, or core samplings as required by this section shall be made available to any person with an interest which is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

(c) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(d) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this Act.

(e) Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the recorder at the courthouse of the county or an appropriate official approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

RECLAMATION PLAN REQUIREMENTS

SEC. 508. (a) Each reclamation plan submitted as part of a permit application pursuant to any approved State program or a Federal program under the provisions of this Act shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal program can be accomplished, a statement of:

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) the condition of the land to be covered by the permit prior to any mining including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(3) the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any State and local governments or agencies thereof which would have to approve or authorize the proposed use of the land following reclamation;

(4) a detailed description of how the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(5) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation

; an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 515;

(6) the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(7) the consideration which has been given to developing the reclamation plan in a manner consistent with local, physical environmental, and climatological conditions and current mining and reclamation technologies;

(8) the consideration which has been given to insuring the maximum practicable recovery of the mineral resource;

(9) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(10) the consideration which has been given to making the surface mining and reclamation operations consistent with applicable State and local land use plans and programs;

(11) all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) the results of test borings which the applicant has made at the area to be covered by the permit, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden: *Provided*, That information about the mineral shall be withheld by the regulatory authority if the applicant so requests;

(13) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of (A) the quantity and quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process, and (B) the rights of present users to such water; and

(14) such other requirements as the regulatory authority shall prescribe by regulation.

(b) Any information required by this section which is not on public file pursuant to State law shall be held in confidence by the regulatory authority.

PERFORMANCE BONDS

SEC. 509. (a) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, and conditional upon faithful performance of all the requirements of this Act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority on the basis of at least two independent estimates. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture and in no case shall the bond be less than $10,000.

(b) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 515. The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The regulatory authority may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorizaton to self-insure or bond such amount.

(d) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

(e) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation obviously changes.

PERMIT APPROVAL OR DENIAL

SEC. 510. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 513, the regulatory authority shall grant or deny the application for a permit and notify the applicant in writing. Within ten days after the granting of a permit, the regulatory authority shall notify the State and the local official who has the duty of collecting real estate taxes in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

(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—

(1) all the requirements of this Act and the State or Federal program have been complied with;

(2) the applicant has demonstrated that reclamation as required by this Act and the State or Federal program can be accomplished under the reclamation plan contained in the permit application;

(3) the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 507(b) has been made and the proposed operation thereof has been designed to prevent irreparable offsite impacts to hydrologic balance;

(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 areas 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

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

(A) not adversely affect, or be located within, alluvial valley floors, underlain by unconsolidated stream-laid deposits where farming or ranching can be practiced on irrigated or naturally subirrigated haymeadows, pasturelands, or croplands; 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); or

(C) not alter the channel of a significant watercourse which is identified as a stream fed by (1) a spring, other ground-water discharge, or surface flow that flows an average of two hundred and fifty gallons per minute or more during one hundred and twenty days or more per year; and (2) a drainage area which encompasses ten thousand acres or more when measured above the lowest point of impact on the watercourse by the proposed surface coal mining operation, as documented by the State or Federal regulatory authority.

(6) the blasting and excavation practices permitted in connection with any proposed surface coal mining operation not in existence on the date of enactment of this Act will not render unsafe or impractical the subsequent extraction of known deposits of coal recoverable by current deep mining technology beneath the area affected by the proposed surface coal mining operation.

(c) The applicant shall file with his permit application a schedule listing any and all notices of violations of this Act and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the one-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of this Act or such other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

REVISION OF PERMITS

SEC. 511. (a)(1) During the term of the permit the permittee may submit an application, together with a revised reclamation plan, to the regulatory authority for a revision of the permit.

(2) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised Reclamation Plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided*, That any revisions which propose a substantial change in the intended future use of the land or significant alterations in the Reclamation Plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(b) No transfer, assignment, or sale of the rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority.

(c) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: *Provided*, That such revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

COAL EXPLORATION PERMITS

SEC. 512. (a) Each State program or Federal program shall include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted under a permit issued by the regulatory authority.

(b) Each application for a coal exploration permit pursuant to an approved State or Federal program under the provisions of this Act shall be accompanied by a fee established by the 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 regulatory authority and shall include a description of the purpose of the proposed exploration project. The supporting technical data shall include, among other things:

(1) a general description of the existing environment;

(2) the location of the area of exploration by either metes or bounds, lot, tract, range, or section, whichever is most applicable, including a copy of the pertinent United States Geological Survey topographical map or maps with the area to be explored delineated thereon;

(3) a description of existing roads, railroads, utilities, and rights-of-way, if not shown on the topographical map;

(4) the location of all surface bodies of water, if not shown on the topographical map;

(5) the planned approximate location of any access roads, cuts, drill holes, and necessary facilities that may be constructed in the course of exploration, all of which shall be plotted on the topographical map;

(6) the estimated time of exploration;

(7) the ownership of the surface land to be explored;

(8) the written permission of all surface landowners of any exploration activities, except where the applicant owns such exploration rights;

(9) provisions for reclamation of all land disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment; and

(10) such other information as the regulatory authority may require.

(c) Specifically identified information submitted by the applicant in the application and supporting technical data as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the applicant shall not be available for public examination.

(d) If an applicant is denied a coal exploration permit under this Act, or if the regulatory authority fails to act within a reasonable time, then the applicant may seek relief under the appropriate administrative procedures.

(e) Any person who conducts any coal exploration activities in connection with surface coal mining operations under this Act without first having obtained a permit to explore from the appropriate regulatory authority or shall fail to conduct such exploration activities in a manner consistent with his approved coal exploration permit, shall be subject to the provisions of section 518.

PUBLIC NOTICE AND PUBLIC HEARINGS

SEC. 513. (a) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies have obligation to submit written comments within thirty days on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall be made available to the public at the same locations as are the mining applications.

(b) Any person with a valid legal interest or the officer or head of any Federal, State or local governmental agency or authority shall have the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed and a hearing requested, the regulatory authority shall then hold a public hearing in the locality of the proposed mining within a reasonable time of the receipt of such objections. The date, time, and location of such public hearing shall be advertised by the regulatory authority in a

newspaper of general circulation in the locality at least once a week for three consecutive weeks prior to the scheduled hearing date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding. At this public hearing, the applicant for a permit shall have the burden of establishing that his application is in compliance with the applicable State and Federal laws. Not less than ten days prior to any proposed hearing, the regulatory authority shall respond to the written objections in writing. Such response shall include the regulatory authority's preliminary proposals as to the terms and conditions, and amount of bond of a possible permit for the area in question and answers to material factual questions presented in the written objections. The regulatory authority's responsibility under this subsection shall in any event be to make publicly available its estimate as to any other conditions of mining or reclamation which may be required or contained in the preliminary proposal. In the event all parties requesting the hearing stipulate agreement prior to the requested hearings, and withdraw their request, such hearings need not be held.

(c) For the purpose of such hearing, the regulatory authority may administer oaths, subpena witnesses, or written or printed materials, compel attendance of the witnesses, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim transcript and complete record of each public hearing shall be ordered by the regulatory authority.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS

SEC. 514. (a) If a public hearing has been held pursuant to section 513(b), the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reason therefor, within thirty days of said hearings.

(b) If there has been no public hearing held pursuant to section 513(b), the regulatory authority shall notify the applicant for a permit within a reasonable time, taking into account the time needed for proper investigation of the site, the complexity of the permit application and whether or not written objection to the application has been filed, whether the application has been approved or disapproved. If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for the said disapproval. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(c) Any applicant or any person who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within a reasonable period of time, shall have the right of appeal for review by a court of competent jurisdiction in accordance with State or Federal law.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

SEC. 515. (a) Any permit issued under any approved State or Federal program pursuant to this Act to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this Act, and such other requirements as the regulatory authority shall promulgate.

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

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition at least fully capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use polices and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highways, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authoried pursuant to this Act): *Provided, however,* That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficent, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste material to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: And *provided further,* That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overbuden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

(4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) restore the topsoil or the best available subsoil which has been segregated and preserved;

(7) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(8) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that—

(A) the size of the impoundment is adequate for its intended purposes;

(B) the impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) the level of water will be reasonably stable;

(E) final grading will provide adequate safety and access for proposed water users; and

(F) such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;

(9) fill all auger holes with an impervious and noncombustible material in order to prevent drainage;

(10) minimize the disturbances to the prevailing hydrologic balance of the mine-site 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—

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters;

(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;

(C) removing temporary or large siltation structures from drainways after disturbed areas are revegetated and stabilized;

(D) restoring the recharge capacity of the mined area to approximate premining condition

(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;

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

(G) such other actions as the regulatory authority may prescribe;

(11) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles in designated areas through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated to the provisions of this Act;

(12) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent break-throughs and to protect health or safety of miners: *Provided*, That the regulatory authority shall permit an operator to mine closer to an abandoned underground mine: *Provided*, That this does not create hazards to the health and safety of miners; or shall permit an operator to mine near, through or partially through an abandoned underground mine working where such mining through will achieve improved resource recovery, abatement of water pollution or elimination of public hazards and such mining shall be consistent with the provisions of the Act;

(13) with respect to the surface disposal of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, the United States Army Corps of Engineers is to supervise the design, location, construction, operation, maintenance, and abandonment of all existing and new coal mine waste embankments, dams, and refuse piles used for the disposal of all such mine wastes, in accordance with the same standards used in the design, location, construction, operation, maintenance, and abandonment of flood control dams and other such structures in their public works program.

No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment.

(14) segregate all acid-forming materials, toxic materials, and materials constituting a fire hazard and promptly bury, cover, compact and isolate such materials during the mining and reclamation process to prevent contact with ground water systems and to prevent leaching and pollution of surface or subsurface waters;

(15) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to—

(A) provide adequate advance written notice by publication and/or posting of the planned blasting schedule to local governments and to residents who might be affected by the use of such explosives and maintain for a period of at least two years a log of the magnitudes and times of blasts; and

(B) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public and private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area;

(16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

(17) insure that the construction maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided*, That the regulatory authority may permit the retention after mining of certain access roads where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

(18) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water;

(19) establish on the regraded areas, and all other lands affected, a diverse, effective and permanent vegetative cover native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: *Provided*, That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five- or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: *Provided further*, That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exception to the provisions of paragraph (19) above; and

(21) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this Act, taking into consideration the physical, climatological, and other characteristics of the site, and to insure the maximum practicable recovery of the mineral resources.

(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.

(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;

(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 coment 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.

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

(A) the toe of the lowest coal seam mined 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 outslopes 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.

(d) The following performance standards shall be applicable to steep slope surface coal mining and shall be in addition to those general performance standards required by this section: *Provided, however*, That the provisions of this subsection (d) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

(1) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, soil, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut, except that where necessary soil or spoil material from the initial block or short linear cut of earth necessary to obtain initial access to the coal seam in a new surface coal

mining operation can be placed temporarily on a limited and specified area of the downslope below the initial cut if the permittee demonstrates that such soil or spoil material will not slide and that the other requirements of this subsection can still be met: *Provided*, That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraphs 515(b)(3) or 515(d)(2) or excess spoil from a surface coal mining operation granted a variance under subsection 515(c) may be permanently stored at such offsite spoil storage areas as the regulatory authority shall designate and for the purposes of his Act such areas shall be deemed in all respects to be part of the lands affected by surface coal mining operations. Such offsite spoil storage areas shall be 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.

(2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator may not disturb land above the top of the highway unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section; *Provided, however*, That the land disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this section, the term "steepslope" is any slope above twenty degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS

SEC. 516. (a) The Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, embodying the following requirements and in accordance with the procedures established under section 501 of this Act.

(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—

(1) adopt measures consistent with known technology in order to prevent subsidence to the extent technologically and economically feasible, maximize mine stability, and maintain the value and use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner; *Provided*, That nothing in this subsection shall be construed to prohibit the standard method of room and pillar continuous mining;

(2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for the conduct of the mining operations;

(3) fill or seal exploratory holes no longer necessary for mining, maximizing to the extent practicable return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working or excavations, stabilize all waste piles created by the permittee from curreit operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not pollute surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) with respect to the surface disposal of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, the United States Army Corps of Engineers is to supervise the design, location, construction, operation, maintenance, and abandonment of all existing and new coal mine waste embankments, dams, and refuse piles used for the disposal of all such mine wastes, in accordance with the same standards used in the design, location, construction, operation, maintenance, and abandonment of flood control dams and other such structures in their public works program.

. No coal mine wastes such as coal fines and slimes shall be used as constituent materials in the construction of any coal mine waste dam or impoundment.

(6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) protect offsite areas from damages which may result from such mining operations;

(8) eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

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

(A) avoiding acid or other toxic mine drainage by such measures as, but not limited to—

(i) preventing or removing water from contact with toxic producing deposits;

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

(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.

(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 size 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 operations: 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.

(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) The provisions of title V of this Act relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface coal mining and reclamation operations incident to underground coal mining with such modifications to the permits application requirements, permit approval or denial procedures, and bond requirements as are deemed necessary by the Secretary due to the differences between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act.

INSPECTIONS AND MONITORING

SEC. 517. (a) The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act—

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

(2) for those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the regulatory authority shall specify those—

(A) monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) records of well logs and borehole data to be maintained; and

(D) monitoring sites to record precipitation. The monitoring, data collection, and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

(3) the authorized representatives of the regulatory authority, without advance notice and upon presentation of appropriate credentials (A) shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located; and (B) may at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one inspection per month for the surface coal mining and reclamation operations for coal covered by each permit; (2) occur without prior notice to the permittee or his agents or employees; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act and the regulatory authority shall make copies of such inspection reports immediately and freely available to the public at a central location in the pertinent geographic area of mining. The Secretary or regulatory authority shall establish a system of continual rotation of inspectors so that the same inspector does not consistently visit the same operations.

(d) Each permittee shall conspicuously maintain at the entrances to the surface coal mining and reclamation operations a

clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

(e) Each inspector, upon detection of each violation of any requirement of any State or Federal program or of this Act, shall forthwith inform the operator in writing, and shall report in writing any such violation to the regulatory authority.

(f) Copies of any records, reports, inspection materials, or information obtained under this title by the regulatory authority shall be made immediately available to the public at central and sufficient locations in the county, multicounty, and State area of mining so that they are conveniently available to residents in the areas of mining.

PENALTIES

SEC. 518. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 520 or section 521, the civil penalty shall be assessed. Such penalty shall not exceed $5,000 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the appropriateness of such penalty to the size of the business of the permittee charged; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Secretary shall consolidate such hearings with other proceedings under section 521 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) If no complaint, as provided in this section, is filed within thirty days from the date of the final order or decision issued by the Secretary under subsection (b) of this section, such order and decision shall be conclusive.

(d) Interest at the rate of 6 per centum per annum or at the prevailing Department of the Treasury borrowing rate, whichever, is greater, shall be charged against a person on any unpaid civil penalty assessed against him pursuant to the final order of the Secretary, said interest to be computed from the thirty-first day after issuance of such final assessment order.

(e) Civil penalties owned under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 526 of this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropirate district court of the United States.

(f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 520, section 525 or section 526 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(g) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 520, section 525 or section 526 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (f) of this section.

(h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than one year or both.

(i) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

RELEASE OF PERFORMANCE BONDS OR DEPOSITS

SEC. 519. (a) The permittee may file a request with the regulatory authority for the release of all or part of a performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the operator shall submit a copy of an advertisement placed on five successive days in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type and the approximate dates of reclamation work performed, and the description of the results achieved as they relate to the operator's approved reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface coal mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(b) Upon receipt of the notification and request, the regulatory authority shall within a reasonable time conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution.

(c) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of 60 per centum of the bond or collateral for the applicable permit area;

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in section 515 of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph (2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area above natural levels and seasonal flow conditions as measured prior to any mining;

(3) When the operator has completed successfully all surface coal mining and reclamation activities, but not before the expiration of the period specified for operator responsibility in section 515:

Provided, however, That no bond shall be fully released until all reclamation requirements of this Act are fully met.

(d) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release.

(e) With any application for total or partial bond release filed with the regulatory authority, the regulatory authority shall notify the municipality in which a surface coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the bond.

(f) Any person with a valid legal interest or the officer or head of any Federal, State, or local governmental agency shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality twice a week for two consecutive weeks.

(g) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, supena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim transcript and a complete record of each public hearing shall be ordered by the regulatory authority.

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, and

(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 regulation promulgated thereunder, or order issued by the regulatory authority; 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—

(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the provisions, regulations, or order; or

(B) if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act or the regulations thereunder, or the order, but in any such action in a court of the United States any person may intervene as a matter of right; or

(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 or lack of 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.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary or the appropriate State regulatory authority).

(f) Any resident of the United States who is injured in any manner through the failure of any operator to comply with the provisions of this Act, or of any regulation, order, permit, or plan of reclamation issued by the Secretary, may bring an action for damage (including attorney fees) in an appropriate United States district court.

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 thta any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation 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, irreparable 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 irreparable 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. If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the Secretary or his authorized representative, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the 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.

(4) 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 a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also find that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Secretary or his authorized representative shall forthwith suspend or revoke the perpermit.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs.

(b) Whenever the Secretary finds that violations of any approved State program appear to result from a failure of the State to enforce such State program effectively, he shall so notify the State. If the Secretary finds that such failures extends beyond thirty days after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representatives in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(d) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto.

DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

SEC. 522. (a)(1) To be eligible to assume primary regulatory authority pursuant to section 503, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will—

(A) be incompatible with existing land use plans or programs; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes—

(A) a State agency responsible for surface coal mining lands review;

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section, and measures to protect the legal interests of affected individuals in all aspects of the State planning process.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to September 1, 1974.

(b) The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 504, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section.

(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. As soon as practicable 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.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resource of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

(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—

(1) on any lands within the boundaries (1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress;

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

(3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site;

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

(5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

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 712 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.

(b) The requirements of this Act and the Federal lands program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require any surface mining and reclamation operations to conform with the requirements of this Act and the regulations issued pursuant to this Act.

(c) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State program covering a permit or permits for surface coal mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single management unit. To implement a joint Federal-State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding duality of administration of a single permit for surface coal mining and reclamation operations.

(d) Except as specifically provided in subsection (c) this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface coal mining and reclamation operations or other activities taking place on the Federal lands.

(e) The Secretary shall develop a program to assure that with respect to the granting of permits, leases, or contracts for coal owned by the United States, that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC CORPORATIONS

SEC. 524. Any agency, unit, or instrumentality of Federal, State, or local government, including any publicly owned utility or publicly owned corporation of Federal, State, or local government, which proposes to engage in surface coal mining operations which are subject to the requirements of this Act shall comply with the provisions of title V.

REVIEW BY SECRETARY

SEC. 525. (a)(1) A permittee issued a notice or order by the Secretary pursuant to the provisions of subparagraphs (a) (2) and (3) of section 521 of this title, or pursuant to a Federal program or the Federal lands program or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay or any order or notice.

(2) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein.

(c) Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 521 of this title, a Federal program or the Federal lands program together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

(3) such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 521, the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Within sixty days following the public hearing, the Secretary shall issue and furnish to the permittee and all other parties to the hearing a writen decision, and the reasons therefor, concerning suspension or revocation of the permit. If the Secretary revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the Secretary, or the Secretary shall declare as forfeited the performance bonds for the operation.

JUDICIAL REVIEW

SEC. 526. (a) (1) Any action of the Secretary to approve or disapprove a State program or to prepare and promulgate a Federal program pursuant to this Act shall be subject to judicial review only by the appropriate United States Court of Appeals upon the filing in such court within sixty days from the date of such action of a petition by any person who participated in the administrative proceedings related thereto and who is aggrieved by the action praying that the action be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Secretary, and the Attorney General and thereupon the Secretary shall certify, and the Attorney General shall file in such court the record upon which the action complained of was issued, as provided in section 2112 of title 28, United States Code.

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States district court for the locality in which the surface coal mining operation is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this Act, the court shall have jurisdiction to enter an order requiring payment or any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 520.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, except an order or decision pertaining to any order issued under section 521 of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

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

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by the court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 520.

SPECIAL BITUMINOUS COAL MINES

SEC. 527. The regulatory authority is authorized to and shall issue separate regulations for those special bituminous coal surface mines located west of the one hundredth meridian west longitude which meet the following criteria:

(a) the excavation of the specific mine pit takes place on the same relatively limited site for an extended period of time;

(b) the excavation of the specific mine pit follows a coal seam having an inclination of fifteen degrees or more from the horizontal, and continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain stability or as necessary to accommodate the orderly expansion of the total mining operation;

(c) the excavation of the specific mine pit involves the mining of more than one coal seam and mining has been initiated on the deepest coal seam contemplated to be mined in the current operations;

(d) the amount of material removed is large in proportion to the surface area disturbed;

(e) there is no practicable alternative method of mining the coal involved;

(f) there is no practicable method to reclaim the land in the manner required by this Act; and

(g) the specific mine pit has been actually producing coal since January 1, 1972, in such manner as to meet the criteria set forth in this section, and, because of past duration of mining, is substantially committed to a mode of operation which warants exceptions to some provisions of this title.

Such alternative regulations shall pertain only to the standards governing onsite handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regrading to the approximate original contour and shall specify that remaining highwalls are stable. All other performance standards in this title shall apply to such mines.

SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT

SEC. 528. The provisions of this Act shall not apply to any of the following activities:

(1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and

(2) the extraction of coal for commercial purposes where the surface mining operation affects two acres or less.

ANTHRACITE COAL MINES

SEC. 529. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of sections 515 and 516. Provisions of sections 509 and 519 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: Provided, however, That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1975, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recomendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

TITLE VI.—INDIAN LANDS PROGRAM

GRANTS TO TRIBES

SEC. 601. (a) The Secretary is authorized to make annual grants directly to any Indian tribe that applies to the Secretary for a grant to develop and administer an Indian lands program for the purpose of enabling the tribe to realize benefits from the development of its coal resources while at the same time protecting the cultural values of the tribe and the physical environment of the reservation, including land, timber, agricultural activity, surface and ground waters, and air, by the establishment of exploration, mine operating and reclamation regulations.

(b) The distribution of funds under this Act shall achieve the purposes of the Act, recognize special jurisdictional status of Indian lands and allotted lands of such tribes and preserve the power of Indian tribes to approve or disapprove surface mining and reclamation operations.

(c) Indian lands programs developed by any Indian tribe shall meet all provisions of this Act and where any provision of any tribal code, ordinance, or regulation in effect upon the date of enactment of this Act or which may become effective thereafter, provides for environmental controls and regulations of surface coal mining and reclamation operations which are some stringent than the provisions of this Act or any regulation issued pursuant hereto, such tribal code, ordinance, or regulation shall not be construed to be inconsistent with this Act.

COAL LEASING

SEC. 602. The Secretary is directed to obtain written prior approval of the tribe before leasing coal under ownership of the tribe.

INDIAN LANDS ENVIRONMENTAL PROTECTION STANDARDS

SEC. 603. Not later than the end of the one-hundred-and eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performace standards based on and incorporating the provisions of title V of this Act, and establishing procedures and requirements for preparation, submission, and approval of Indian lands programs and development and implementation of Federal programs under this title. Such regulations shall be promulgated and published under the guidelines of section 501 of this Act.

APPROVAL OF PROGRAM

SEC. 604. (a) Within twenty-four months after the receipt of funding under section 601(a) of this Act, but not less than thirty months after the date of enactment of this Act, a tribe which expresses to the Secretary an intent to develop and administer an Indian lands program, giving the tribe exclusive jurisdiction over the regulation of surface coal mining and reclamation operations on lands under its jurisdiction, except as provided in section 521 and title IV of this Act shall submit an Indian lands program which demonstrates that such tribe has the capability of carrying out the provisions of this Act.

(b) The Secretary shall approve or disapprove an Indian lands program, in whole or in part, within six full calendar months after the date such Indian lands program was submitted to him.

(c) If the Secretary disapproves an Indian lands program in whole or in part, he shall notify the tribe in writing of his decision and set forth in detail the reasons therefor. The tribe shall have sixty days in which to resubmit a revised Indian lands program, or portion thereof: The Secretary shall approve or disapprove the resubmitted Indian lands program or portion thereof within sixty days from the date of resubmission.

(d) For the purpose of this section and section 504 of this Act, the inability of an Indian tribe to take any action the purpose of which is to prepare, submit, or enforce an Indian lands program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the Indian lands program subject to the injunction shall be conducted by the Indian tribe pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of section 503 and 504 shall again be fully applicable.

(e) The Secretary shall not approve any Indian lands program submitted under this section until he has—

(1) solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of the other Federal agencies concerned with or having special expertise pertinent to the proposed Indian lands program;

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of an Indian lands program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175) and the Clean Air Act, as amended (42 U.S.C. 1857);

(3) held at least one public hearing on the Indian lands program for the enrolled members of the tribe on its reservation; and

(4) found that the Indian tribe has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

INITIAL REGULATORY PROCEDURES

SEC. 605. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining and reclamation operations on Indian lands after the date of enactment of this Act unless such person is in compliance with existing Federal regulations governing surface coal mining on Indian lands.

(b) No later than one hundred and thirty-five days from the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect on those Indian lands on which there is surface coal mining and where the Indian tribe has expressed to the Secretary an intent to develop and administer an Indian lands program, until the Indian lands program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall be carried out pursuant to the provisions of subsections 502(f)(1), 502(f)(2), 502(f)(3), 502(f)(4), and 502(f)(5).

(c) Following the final disapproval of an Indian lands program, and prior to promulgation of a Federal program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act.

FEDERAL PROGRAM

SEC. 606. (a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement, pursuant to section 501 of this Act, a Federal program for an Indian tribe that expresses an intent to develop and administer an Indian lands program if such Indian tribe—

(1) fails to submit an Indian lands program covering surface mining and reclamation operations by the end of the thirty month period beginning on the date of enactment of this Act;

(2) fails to resubmit an acceptable Indian lands program within sixty days of disapproval of a proposed Indian lands program: Provided, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of an Indian lands program as provided for in clause (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved Indian lands program as provided for in this Act.

If tribal compliance with clause (1) of this subsection requires an act of the tribal council or tribal legislature the Secretary may extend the period for submission of an Indian lands program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any tribal reservation or upon tribal lands not in compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. In promulgating and implementating a Federal program for a particular Indian tribe the Secretary shall take into consideration the nature of that Indian tribal reservation's terrain, climate, biological, chemical and other relevant physical conditions.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing for the enrolled members of the tribe in a location convenient to the tribe.

(c) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program pursuant to section 504(d) of this Act.

(d) An Indian tribe which has failed to obtain the approval of an Indian lands program prior to implementation of a Federal program may submit an Indian lands program at any time after such implementation pursuant to section 504 of this Act. Until an Indian lands program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder, shall remain in effect.

(e) Permits issued pursuant to the Federal program shall be valid but reviewable under the approved Indian lands program. The tribal regulatory authority may review such permits to determine that the requirements of this Act and the approved Indian lands program are not being violated. If the tribal regulatory authority determines any permit to have been granted contrary to the requirements of the Act or the approved Indian lands program, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Act or approved Indian lands program.

ADMINISTRATION BY THE SECRETARY

SEC. 607. (a) At any time, a tribe may select to have its program administered by the Secretary. Upon such a request by a tribe, the Secretary shall assume the responsibility for administering the tribe's Indian lands program for that reservation.

(b) Permits issued pursuant to an approved Indian lands program shall be valid but reviewable under a Federal program prepared pursuant to subsection 506(a) of this Act. Immediately following the promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not being violated. If the Secretary determines that any permit has been granted contrary to the requirements of this Act he shall so advise the permittee and provide him a reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the Federal program.

PERSONNEL

SEC. 608. (a) Indian tribes are authorized to use the funds authorized pursuant to section 601(a) of this title for the hiring of professional and technical personnel and, where appropriate, to allocate funds to legitimately recognized organizations of the tribe that are pursuing the objectives of this title, as well as hire special consultants, groups, or firms from the public and private sector, for the purpose of developing, establishing, or implementing an Indian lands program.

AUTHORIZATION PRIORITY

SEC. 609. Of the funds made available under section 714(a) of this Act, first priority on $2,000,000 for each of the fiscal years shall be for the purposes of this title.

REPORTS TO THE SECRETARY

SEC. 610. Any Indian tribe which is receiving or has received a grant pursuant to section 714(a) of this Act, shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

ENFORCEMENT

SEC. 611. For the purpose of administering an Indian lands program under this Act, a tribe shall have jurisdictional authority including the ability to require compliance with said regulations over all persons whether Indian or non-Indian engaged in surface coal mining operations and that all disputes will be adjudicated in the appropriate tribal court forum until that remedy is exhausted and then the aggrieved party has the right to a trial de novo in Federal district court in the appropriate district.

INDIAN LANDS STUDY

SEC. 612. (a) The Secretary is directed to study the question of the regulation of surface coal mining on Indian lands which will achieve the purposes of this Act and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with the Indian tribes, and may contract or give grants to Indian tribes, qualified institutions, agencies, organizations, and persons. The study report shall include proposed legislation designed to assist Indian tribes to assume full regulatory authority over the administration and enforcement of regulation of surface coal mining on Indian lands.

(b) The report required by subsection (a) of this section together with draft proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than two years after the date of enactment of this Act.

(c) On and after one hundred and thirty-five days from the date of enactment of this Act, all surface coal mining operations on Indian lands wherein the tribe has not applied for a grant to develop and administer an Indian lands program pursuant to section 601 of this title, or has not selected to have its Indian lands program adminis-

tered by the Secretary pursuant to section 607 of this title, shall comply with requirements at least as stringent as those imposed by 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 and the Secretary shall incorporate the requirements of such provisions in all existing and new leases for coal on Indian lands.

(d) On and after thirty months following the date of enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

(f) Any change required by subsections (c) and (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

(g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than $700,000 of the funds authorized in section 714(a) of this Act shall be reserved for this purpose.

REPORTS TO CONGRESS

SEC. 613. The Secretary shall report annually to the President and the Congress on all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

TITLE VII—DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

DESIGNATION PROCEDURES

SEC. 701. (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) lands where such mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values or natural systems, of more than local significance, or could unreasonably endanger human life and property.

(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.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

(f) When the Secretary designates an area of Federal lands as unsuitable for all or certain types of mining operations for minerals and materials other than coal pursuant to this section he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection 601(e), that the benefits resulting from such designation, would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

TITLE VIII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 801. For the purposes of this Act—

(1) "Secretary" means the Secretary of the Interior, except where otherwise described;

(2) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(3) "Office" means the Office of Surface Mining, Reclamation, and Enforcement established pursuant to title II;

(4) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof; or between points in the same State which directly or indirectly affect interstate commerce;

(5) "surface coal mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: *Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percentum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by 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, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, 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;

(6) "surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this Act;

(7) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(8) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands;

(9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe;

(10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) The term 'Indian lands program' means a program established by an Indian tribe pursuant to title VI to regulate surface mining and reclamation operations for coal, whichever is relevant, on Indian lands under its jurisdiction in accordance with the requirements of this Act and the regulations issued by the Secretary pursuant to this Act;

(12) "State program" means a program established by a State pursuant to section 503 to regulate surface coal mining and reclamation operations, on lands within such State in accord with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

(13) "Federal program" means a program established by the Secretary pursuant to section 504 to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act;

(14) "Federal lands program" means a program established by the Secretary pursuant to section 523 to regulate surface coal mining and reclamation operations on Federal lands;

(15) "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 508;

(16) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this Act;

(17) "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program;

(18) "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(19) "permit" means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

(20) "permit applicant" or "applicant" means a person applying for a permit;

(20) "permittee" means a person holding a permit;

(21) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 401;

(22) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the Earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

(23) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 515(b)(8) of this Act;

(24) "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

(25) "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 509 of this Act and shall be readily identifiable by appropriate markers on the site;

(26) "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care;

(27) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities;

(28) "imminent danger to the health or safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated.

OTHER FEDERAL LAWS

SEC. 502. (a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or any of the following Acts or with any rule or regulation promulgated thereunder, including but not limited to—

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended, the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c).

(b) Nothing in this Act shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on lands under their jurisdiction.

(c) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

SEC. 503. (a) No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein and his findings in an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he shall issue a finding. Orders issued by the Secretary under this subsection shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of the applicant a sum equal to the aggregate amounts of all costs and expenses (including attorneys' fees) to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

(d) The Secretary shall conduct continuing evaluations of potential losses or shifts of employment which may result from the enforcement of this Act or any requirement of this Act including, where appropriate, investigating threatened mine closures or reductions in employment allegedly resulting from such enforcement or requirement. Any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of the enforcement or requirement of this Act, or any representative of such employee, may request the Secretary to conduct a full investigation of the matter. The Secretary shall thereupon investigate the matter, and, at the request of any interested party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such limitation or order on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 54 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall promptly make findings of fact as to the effect of such enforcement or requirement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Secretary or a State to modify or withdraw any enforcement action or requirement.

PROTECTION OF GOVERNMENT EMPLOYEES

SEC. 504. Section 1114, title 18, United States Code, is hereby amended by adding the words "or of the Department of the Interior" after the worlds "Department of Labor" contained in that section.

GRANTS TO THE STATES

SEC. 505. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 40 per centum of the total costs incurred during the third and fourth years.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) 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. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

ANNUAL REPORT

SEC. 506. The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this Act. Among other matters, the Secretary shall include in such report recommendations for additional administrative or legislative action as he deems necessary and desirable to accomplish the purposes of this Act.

SEVERABILITY

SEC. 507. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

ALASKAN SURFACE COAL MINE STUDY

SEC. 508. (a) The Secretary is directed to contract with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine which, if any, of the provisions of this Act should be modified with respect to surface coal mining operations in Alaska.

(b) The Secretary shall report on the findings of the study to the President and Congress no later than two years after the date of enactment of this Act.

(c) The Secretary shall include in his report a draft of legislation to implement any changes recommended to this Act.

(d) Until one year after the Secretary has made this report to the President and Congress, or three years after the date of enactment of this Act, whichever comes first, the Secretary is authorized to suspend the applicability of any provision of this Act, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding enactment of this Act if he deter-

mines that it is necessary to insure the continued operation of such surface coal mining operation. The Secretary may exercise his suspension authority only after he has (1) published a notice of proposed suspension in the Federal Register and in a newspaper of general circulation in the area of Alaska in which the affected surface coal mining operation is located, and (2) held a public hearing on the proposed suspension in Alaska.

(e) There is hereby authorized to be appropriated for the purpose of this section $250,000.

STUDY OF RECLAMATION STANDARDS FOR SURFACE MINING OF OTHER MINERALS

SEC. 709. (a) The Chairman of the Council on Environmental Quality is directed to contract with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of current and developing technology for surface and open pit mining and reclamation for minerals other than coal designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation for minerals other than coal, with a primary emphasis upon oil shale and tar sands reserves. The study shall—

(1) assess the degree to which the requirements of this Act can be met by such technology and the costs involved;

(2) identify areas where the requirements of this Act cannot be met by current and developing technology;

(3) in those instances describe requirements most comparable to those of this Act which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this Act; and

(4) discuss alternative regulatory mechanisms designed to insure the achievement of the most beneficial post-mining land use for areas affected by surface and open-pit mining.

(b) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after the date of enactment of this Act: *Provided*, That with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after the date of enactment of this Act.

(c) There are hereby authorized to be appropriated for the purpose of this section $500,000.

INDIAN LANDS

SEC. 710. (a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purpose of this Act and recognize the special jurisdictional status of these lands. In carrying out this study the Secretary shall consult with Indian tribes. The study report shall include proposed legislation designed to allow Indian tribes to elect to assume full regulatory authority over the administration and enforcement of regulation of surface mining of coal on Indian lands.

(b) The study report required by subsection (a) together with drafts of proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than January 1, 1976.

(c) On and after one hundred and thirty-five days from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by subsection 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(19), and 515(d) of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(d) On and after thirty months from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

(f) Any change required by subsection (c) or (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

(g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than $700,000 of the funds authorized in section 712(a) shall be reserved for this purpose.

EXPERIMENTAL PRACTICES

SEC. 711. In order to encourage advances in mining and reclamation practices, the regulatory authority may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 515 and 516 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operation is no larger than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums, and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 502, 522, 405(b)(3), and 710, contract authority is granted to the Secretary of the Interior for the sum of $10,000,000 to become available immediately upon enactment of this Act and $10,000,000 for each of the two succeeding fiscal years.

(b) For administrative and other purposes of this Act, except as otherwise provided for in this Act, authorization is provided for the sum of $10,000,000 for the fiscal year ending June 30, 1975, for each of the two succeeding fiscal years the sum of $20,000,000 and $30,000,000 for each fiscal year thereafter.

RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES

SEC. 713. (a) The Secretary is authorized to conduct and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to—

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximizes the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep seams; and

(2) safety and health in the application of such technologies, methods, and means.

b) In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(c) There are authorized to be appropriated to the Secretary, to carry out the purposes of this section, $35,000,000 for each fiscal year beginning with the fiscal year 1976, and for each year thereafter for the next four years.

(d) at least 60 days before any funds are obligated for any research studies, surveys, experiments or demonstration projects to be conducted or financed under this Act in any fiscal year, the Secretary in consultation with the Administrator of the Energy Research and Development Administration and the heads of other Federal agencies having the authority to conduct or finance such projects, shall determine and publish such determinations in the Federal Register that such projects are not being conducted or financed by any other Federal agency. On March 1 of each calendar year, the Secretary shall report to the Congress on the research studies, surveys, experiments or demonstration projects, conducted or financed under this Act, including, but not limited to, a statement of the nature and purpose of such project, the Federal cost thereof, the identity and affiliation of the persons engaged in such projects, the expected completion date of the projects and the relationship of the projects to other such projects of a similar nature.

(e) subject to the patent provisions of section 306(d) of this Act, all information and data resulting from any research studies, surveys, experiments, or demonstration projects conducted or financed under this Act shall be promptly made available to the public.

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.

(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 section (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;

(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 one hundred dollars ($100.00) per acre, whichever is less.

(f) All bids 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.

(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 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 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.

(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 to 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 December 3, 1974, of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface coal mining methods.

FEDERAL LESSEE PROTECTION

SEC. 515. In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof;

(2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this Act.

WATER RIGHTS

SEC. 516. Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable State law, his interest in water resources affected by a surface coal mining operation.

PROTECTION OF WATER RIGHTS

SEC. 517. (a) In those instances in which it is determined that a proposed surface coal mining operation is likely to adversely affect the hydrologic balance of water on or off site, or diminish the supply or quality of such water, the application for a permit shall include either—

(1) the written consent of all owners of water rights reasonably anticipated to be affected; or

(2) evidence of the capability and willingness to provide substitute water supply, at least equal in quality, quantity, and duration to the affected water rights of such owners.

(b) (1) An owner of water rights adversely affected may file a complaint detailing the loss in quantity or quality of his water with the regulatory authority.

(2) Upon receipt of such complaint the regulatory authority shall—

(A) investigate such complaint using all available information including the monitoring data gathered pursuant to section 517;

(B) within 90 days issue a specific written finding as to the cause of the water loss in quantity or quality, if any;

(C) order the mining operator to replace the water within a reasonable time in like quality, quantity, and duration if the loss is caused by the surface coal mining operations, and require the mining operator to compensate the owner of the water right for any damages he has sustained by reason of said loss; and

(D) order the suspension of the operator's permit if the operator fails to comply with any order issued pursuant to subparagraph (C).