The original documents are located in Box 31, folder "Strip Mining - American Mining Congress Reprints (1)" of the John Marsh Files at the Gerald R. Ford Presidential Library.

AMENDMENTS SUBMITTED FOR PRINTING

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975—S. 7

AMENDMENTS NO. 74 AND NO. 75

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted two amendments intended to be proposed by him to the bill (S. 7) 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.

AMENDMENTS NOS. 76 AND 77

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 7), supra.

AMENDMENT NO. 78

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON. I would like to make clear at the outset that the introduction of this amendment to title III should in no way be construed as opposition on my part to the purpose of the title, that is providing a wide range of investigations, demonstrations, and experiments in mining and minerals resources problems. On the contrary, I strongly support this worthwhile, extremely necessary step.

In hearings I conducted last year, as a member of the Permanent Investigations Subcommittee, witness after witness told of the need for the development of new technologies if supplies of raw materials are to keep pace with the world's ever-increasing demands for their use. Certainly, with the financial resources provided in title III, our Nation's colleges and universities will be able to play the key role that they should in the advancement of these technologies.

To be sure, we cannot let the administration's view that this research is unnecessary and would duplicate present efforts, prevail. Clearly we must allow our institutions of higher learning to go forward. In addition, few could dispute that in section 306 of the bill there is adequate provision for preventing any duplication of ongoing Federal agency, private institution, or individual research programs.

My amendment speaks solely to what I consider to be the arbitrary organizational constraints included in the eligibility requirements in section 301. Specifically, I refer to the fact that to be eligible for funds a college or university must have a "school of mines department or division" with at least five full-time permanent faculty members. Two problems are created by these eligibility requirements.

First, by specifying "school of mines department or division" a number of schools with highly professional, fully qualified programs in mining research are eliminated simply because they do not fall into the organizational structure of a "school of mines, or division, or department."

For example, at the University of Kentucky, the College of Engineering has an elective mining program that offers, in addition to the required civil engineering subjects, the following curriculum: First, elements of mining; second, mine ventilation; third, mine law; fourth, rock mechanics; fifth, mine plant machinery and design; sixth, coal preparation I; and seventh, coal preparation II. This totals 21 semester hours of credit, plus laboratory time. Add to this total, civil engineering subjects such as water quality control and surveying and it would appear to constitute superior curriculum, a strong base for any research and training program. In fact, for calendar year 1972 the University of Kentucky placed more graduates—22—in coal industry jobs than any school in the country.

This was accomplished through the mining elective program described above—not "a school of mines, or division, or department."

The University of Kentucky has had a mining program since 1901. In 1972, the State of Kentucky initiated funding for the Institute for Mining and Minerals Research of the College of Engineering. It is my understanding that this institute is not considered eligible under the present requirements in S. 7. Kentucky has committed well over $3 million to the institute for research pertaining to the mining of coal, its conversion, and the exploration of reserves within the State. Yet under the organizational approach taken in S. 7, the institute will not be allowed to receive Federal allotments subsequent to the passage of this bill.

The first portion of my amendment would eliminate this inequity for all those schools with similarly qualified programs by expanding the present "eligible school of mines, department or division" provision to include those universities with a qualified curriculum.

The second portion of my amendment would eliminate the "five full-time permanent faculty" provision in S. 7 and place in lieu of it the requirement that the school of mines, or division, or department, or program in question must qualify mining students for careers in mining education, mining research, or the mining industry.

That the five full-time permanent faculty members requirement would be arbitrary and overly restrictive is easily demonstrated.

Presently, there are 17 schools in the country with accredited curricula in mining. This accreditation comes from the highly recognized Engineers' Council for Professional Development—ECPD. Three schools on the council's list—Michigan Tech, Montana College of Mineral Science & Technology, and the University of Wisconsin at Platteville—have less than five full-time faculty members.

Three other schools accredited by the council, the University of Alaska, the Colorado School of Mines, and the University of Nevada at Reno, barely meet the minimum requirement by having exactly five full-time faculty members.

We can see how arbitrary the criterion is in its present form when we look at the situation confronting the University of South Dakota's School of Mines, which usually has five full-time mining faculty members. At the present time, one of these faculty members is on leave. Thus, it is possible that if the bill is enacted into law while this faculty member is still on leave the school will be deprived for 2 years of the opportunity to apply for research moneys in the bill. What would happen if for one reason or another a faculty member at one of the schools I have listed previously as meeting only the minimum requirement was temporarily off the payroll when the bill becomes law? Is this school to be penalized for not living up to the full-time faculty members provision?

There is nothing magical about having five professors in a mining program. As anyone can see, having five full-time permanent faculty members is simply not essential to a strong program. This provision really amounts to an organizational constraint that very likely will do a great disservice to a number of highly qualified colleges and universities.

For those colleges and universities who may wish to establish schools subsequent to the enactment of title III, it is painfully apparent that the difficulty of hiring five full-time staff members may prove to be too much of a hurdle to get a qualifying program off the ground.

I sincerely believe that my amendment not only relieves the organizational constraints now contained in the bill but also provides more than sufficient safeguards against the gold rush by fly-by-night operations for the available funds.

AMENDMENT NO. 79

(Ordered to be printed and to lie on the table.)

Mr. METCALF submitted an amendment intended to be proposed by him to the bill (S. 7), supra.

AMENDMENT NO. 80

(Ordered to be printed and to lie on the table.)

Mr. MANSFIELD submitted an amendment intended to be proposed by him to the bill (S. 7), supra.

AMENDMENT NO. 82

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 7), supra.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 7, Calendar No. 28, the Surface Mining Control and Reclamation Act of 1975, and that it be made the pending business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 7) 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 Acting PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Darla West of my staff be permitted floor privileges for the duration of discussion on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, in bringing up S. 7, Federal legislation to regulate coal mining, I wish to say that this bill is long overdue.

Enactment of the Surface Mining Control and Reclamation Act will enable the coal industry to proceed with development of our Nation's vast coal resources in a manner which will assure that the other natural resources of our country will not be unnecessarily damaged.

Congress has been actively considering surface coal mining legislation for the past 4 years. During the 93d Congress the Senate passed a bill in October of 1973 by a vote of 82 to 8. The House passed its amendment to the Senate bill in July of 1974 by a vote of 291 to 81.

I emphasize this October 1973 and July of 1974, because those bills were pocket vetoed at the end of the session.

The conference committee met almost 30 times for over 100 hours to resolve the differences between the Senate and House versions of the bill. Unfortunately after all those 30 meetings and those hundreds of hours, the end product of all this intensive study and debate did not become law, because the President did not sign it.

I deeply regret that President Ford vetoed the bill. I particularly regret the fact that he did not give Congress a chance to override his veto and thus permit the industry to get on with the business of mining coal.

As introduced, S. 7 was identical to the bill pocket-vetoed by the President. It is designed to achieve a balance between the need to protect the environment and the need to develop our coal resources to meet our national energy needs.

This is a national bill. There are substantial economic and geographical differences in all areas of America. The fertile topsoil of Ohio and Illinois can be stockpiled, while the sparse and arid topsoil of Montana and Wyoming loses its nutrients in a short period of time. The rainfall differs so greatly that reclamation is substantially easier in some areas than in others; the depth of the coal seams, the differences in mining techniques, all contribute to the difficulties of enacting comprehensive national legislation. Therefore, this bill, S. 7 may well be considered as minimal in many areas and it will be the responsibility of State administrators and of the State legislatures to make the regional adjustments necessary to fit the pattern into the special needs of the respective States.

Nevertheless, the bill establishes the basic standard that land may not be stripmined unless it can be reclaimed. It contains specific reclamation standards; gives the States principal responsibility for regulation; deals with surface impacts of underground mining; establishes a reclamation program for previously mined—"orphan"—lands; authorizes establishment of mining and mineral resources research institutes; and provides special protection for certain private individuals who own the surface of land containing coal, the subsurface of which is owned by the United States.

Mr. President, I ask unanimous consent that a brief summary of S. 7 be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METCALF. Mr. President, on February 6, President Ford sent to Congress an Executive communication containing the administration's proposed surface mining bill. It follows S. 7 but makes changes which would overcome the objections which led to the pocket veto. The administration bill has been introduced as S. 652.

The President identified eight "critical" changes and 19 "important" changes. The committee reviewed the President's changes very carefully. As reported by the committee, S. 7 incorporated five of the President's changes verbatim and has been revised to resolve five of the other problems identified by the President. I ask unanimous consent that a listing of the President's recommendations—in the order they appear in his February 6 letter—together with the committee's comments and recommendations be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. METCALF. Mr. President, I am particularly pleased that the Committee on Interior and Insular Affairs approved S. 7 by a vote of 12 to 2. This margin will, I suspect, be representative of the vote in the entire Senate.

I want to take this opportunity to comment on several provisions of the bill which, if one can judge by the comments of the coal industry and the minority views in the committee report, are totally misunderstood by its opponents.

First, is the reference to "protection given to alluvial valley floors." The minority views state that the Department of the Interior said that "the definition—of alluvial valley floors—would preclude mining on millions of acres." On March 7, Department representatives stated that they had misunderstood what S. 7 said. They thought that it banned mining in alluvial valley floors, when in fact strip mining is banned only if it would have a "substantial averse effect on farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant to such operations." They stated that even under the broadest conceivable interpretation of "alluvial valley floor" the impact would be much less than implied in the minority report.

Mr. President, I propose to introduce a minor amendment that would be in the language of the geologist who testified on S. 7 in that March meeting, to clarify and narrow the definition of "alluvial valley floor."

The minority views on the question of stream siltation criticize the committee for failing to recognize the economic ramifications of the standards imposed by S. 7. They fail to mention the two amendments recommended by the committee which, as requested by the President, make it clear that "prevent" is not meant as an absolute requirement.

Third, the minority views state that S. 425—and by implication, S. 7—"contained a prohibition against further leasing of Federal coal until February 1, 1976." This is another incorrect description of S. 7—and S. 425. Section 716(c) of S. 7 prohibits the leasing, until February 1, 1976, only of Federal coal underlying privately owned surface. This

temporary moratorium does not apply where the surface owner has agreed to surface coal mining prior to February 27, 1975. As many Senators know, coal companies have already obtained such consent on hundreds of thousands of acres in the western areas.

The minority views relate the need to lease Federal coal solely to the 16 billion tons currently under lease. This ignores the fact that an additional 12 billion tons are now committed to private development under preference right lease applications. Thus the potential impact of this limited moratorium is really very slight.

The minority views also state that S. 7 allows a variance from the requirement to return mined land to its "approximate original contour for Eastern U.S. strip mining operations, but not Western." This is wrong.

The variance applies to a mining technique—mountain top removal—not a geographic area. This technique probably will be used more in the East than in the West. But the minority fails to point out another exception to the approximate original contour which will be applicable primarily in the West. That exception is granted when there is insufficient overburden—a frequent occurrence in the thick Eastern coal seams. Furthermore, man-made lakes can be created after mining under the definition of approximate original contour.

Finally, the minority continually stresses the fact that S. 7 places greater burdens on surface mining than underground mining. Of course, the major purpose of the bill is to deal with surface effects of both surface and underground coal mining. The minority chooses to ignore the fact that Congress dealt with the underground effects of underground coal mining in the Coal Mine Health and Safety Act of 1969.

Mr. President, I urge the Senate to pass S. 7.

EXHIBIT 1

BRIEF SUMMARY OF SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

(1) *Environmental Standards.* The bill establishes the basic standard that lands may not be surface mined unless they can be reclaimed. It includes the following environmental protection standards: prevention of dumping spoil and overburden downslope in mountainous areas; a requirement that mine sites be regarded to approximate original contour, including backfilling the final cut to eliminate highwalls; revegetation measures to assure land stability and long-term productivity; and water protection standards directed at protection of water quantity and quality. The latter will be particularly significant in maintaining the delicate hydrologic relationships in the West and preventing acid mine drainage in the East. The environmental performance standards are not inflexible, however, as the bill provides for variances from these standards in order to allow cretain planned post-mining land uses.

(2) *State Responsibility.* The bill gives the principal responsibility for surface mining regulation to the States. The States are given thirty months to prepare adequate regulatory programs to meet the minimum standards in the Act. Federal funding is available to help the States prepare and enforce such programs.

(3) *Surface Impacts of Underground Mines.* The bill also treats surface impacts of underground mines such as those resulting from mine waste disposal. In particular, mine waste embankments are covered by rigorous engineering requirements, in order to prevent failures such as occurred at Buffalo Creek, where an embankment gave way resulting in the death of 125 persons.

(4) *Reclamation of Orphan Lands.* The bill establishes a reclamation program to repair past damages from both surface and underground coal mines in all regions of the country. In addition, assistance is provided for the construction of public facilities in order to ameliorate the impact of rapid coal development. For ten years, a reclamation fee of 35¢ per ton for surface mined coal and 25¢ per ton for underground mined coal, or 10% of the value of such coal, whichever is less, is assessed in order to provide for the reclamation program. At the present rate of production this amounts to approximately $165 million per year. One half of this money must be spent in the state in which it is collected.

(5) *State Mineral Institutes.* The bill also authorizes the Secretary of the Interior to establish state mining and mineral resources research institutes at State or other eligible universities. These institutes will perform research on mineral extraction and processing technologies, and train engineers and scientists to serve the needs of the nation's mining industry. This program should help to avoid future materials and personnel shortages.

(6) *Surface Owner Protection.* Special problems arise where coal deposits have been reserved to the United States but title to the surface has been conveyed to private individuals. The bill establishes as Federal coal leasing policy a requirement that the Secretary of the Interior not lease for surface mining without the consent of the surface owner, Federal coal deposits underlying land owned by a person who has his principal place of residence on the land, or personally farms or ranches the land affected by the mining operation, or receives directly a "significant portion" of his income from such farming. By so defining "surface owner", the bill should prevent speculators purchasing land only in the hope of reaping a windfull profit simply because Federal coal deposits lie underneath the land.

At the same time, so that there will not be any undue locking up of Federal coal, generous compensation is guaranteed to the surface owner, based not only upon the market value of the property of the land, but also the costs of dislocation and relocation, loss of income and othre values and damages.

The procedure for obtaining surface owner consent is intended to assure that the surface owner will be dealing solely with the Secretary of the Interior in deciding whether or not to give his consent to surface coal mining. Penalties would be assessed to discourage the making of "side deals" in order to circumvent the provisions of the bill.

EXHIBIT 2

CRITICAL CHANGES

1. *Citizen suits. Administration Recommendations:* "S. 425 would allow citizen suits against any person for a 'violation of the provisions of this Act'. * * * Citizen suits are retained in the Administration bill, but are modified * * * to provide for suits against (1) the regulatory agency to enforce the act, (2) mine operators where violations of regulations or permits are alleged."

Committee Comment: Section 520 of S. 7 is identical to the citizen suit provision in the Deepwater Port Act of 1974, which the President signed into law one day after his pocket-veto of S. 425. The Committee does not believe that this provision will lead to undue harassment of operators.

Committee Recommendation: No amendment.

2. *Stream siltation. Administration Recommendation:* "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."

Committee Comment: This recommendation is based on an interpretation of Section 515(b)(10) of S. 7 which is inconsistent with the entire legislative history. Both the Senate and House recognize that surface mining involves at least temporary disruption of the environment. S. 7 accepts this fact and is not a "ban" bill.

The Administration fears that some court will interpret "prevent" on page 84, line 13, as a ban despite the overriding language on page 83, lines 20–25 stating the standard as "minimize the disturbance to the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quality and quantity of water in surface and ground water systems. * * * " Adding a reference to "maximum extent practicable" introduces economic tests which are not appropriate to environmental protection and not necessary to permit surface mining.

Committee Recommendation: Amend 515(b)(10)(B) by modifying "prevent" with the phrase "to the maximum extent possible, using the best available technology".

3. *Hydrologic disturbances. Administration Recommendations:* "S. 425 would establish absolute requirements to preserve the hydrologic integrity of alluvial valley floors—and prevent offsite hydrologic disturbances. * * * 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."

Committee Comment: See comment on 2. above.

Committee Recomendation: Amend 515(b)(10)(F) by modifying "preserving" with the phrase "to the maximum extent possible, using the best available technology".

4. *Ambiguous terms. Administration Recomendation:* "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."

Committee Comment: The Administration's proposal is a very unusual provision. The Secretary has general rulemaking authority to define terms. The courts normally look to administrative interpretations of the law to resolve ambiguities.

The Administration believes that the provision would force the courts to give *very special* weight to the Secretary's interpretation of the law. As far as the Committee can determine, this would be a unique provision, at least in Federal law.

Committee Recommendation: No amendment.

5. *Abandoned land reclamation fund. Administration Recommendation:* "S. 425 would establish a tax of 25¢ per ton for underground mined coal and 35¢ 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. * * * The Administration bill would set the tax at 10¢ per ton for all coal * * * which should be ample.

"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. * * * The Administration bill does not provide authority for funding facilities."

Committee Comment: The amount of the fee is a carefully worked out compromise. The Administration has done no estimates or calculations on the adequacy of the 10¢/ton figure nor on the anticipated cost or scope of the reclamation program. The Bureau of Mines estimates the cost of orphan land rehabilitation to be almost $7 billion.

The broad scope of the program is particularly important in the West, where there are relatively few "orphan lands" but the anticipated social, economic, and environmental impacts of proposed coal development are large. This program would also create a large number of jobs.

Committee Recommendation: No amendment.

6. *Impoundments. Administration Recommendation:* "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.

Committee Comment: The concern of the Administration in recommending this change is a fear that S. 7 could be interpreted to require the relocation of existing in-use dams, which are structurally sound This is not intended.

Committee Recommendation: No amendment.

7. *National forests. Administration Recommendation.* "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. * * * In the Administration bill, this provision is modified to permit the Agriculture Secretary to waive the restriction in specific areas when multiple resources analysis indicates that such mining would be in the public interest."

Committee Comment: The Administration indicated that it has no plans to lease Federal coal within national forests. This ban on mining in national forests represents a careful compromise between last year's House bill which banned surface mining in national forests and national grasslands and the Senate bill which did not contain any such ban. The national grasslands also contain 7 billion tons of coal reserves.

Committee Recommendation: No amendment.

8. *Special unemployment provisions. Administration Recommendation:* "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 Public Law 93-567 and Public Law 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."

Committee Comment: The two public laws referred to by the Administration tie benefits to general trends in the economy and not to the possible impacts of S. 7. The Committee believes that few, if any, coal mine workers will lose their jobs because of enactment of S. 7. However, it seems only fair to provide special benefits to anyone who does become unemployed because of the imposition of new requirements.

Committee Recommendation: No amendment.

"OTHER IMPORTANT CHANGES"

1. *Antidegradation. Administration Recommendation:* "S. 425 contains a provision which, if literally interpreted by the courts, could lead to a non-degradation standard similar to that experienced with the Clean Air Act. * * * Changes are included in the Administration bill to overcome this problem."

Committee Comment: The Administration view is based on a very unlikely interpretation of S. 7. Adoption of the Administration's language for Section 102(a) would not weaken S. 7.

Committee Recommendation: Adopt Administration amendment.

2. *Reclamation fund. Administration Recommendation:* "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."

Committee Comment: This provision is patterned after the present Soil Conservation Service programs. The original Senate provision was authored by Senator Baker. The Committee recommends adoption of a further amendment proposed by Senator Baker.

Committee Recommendation: Expand coverage to 100 acres and give discretionary authority to increase Federal matching share in specific situations.

3. *Interim program timing. Administration Recommendation:* "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."

Committee Comment: A potential moratorium on surface mining beginning two years after enactment was originally and deliberately included in last year's Senate bill (S. 425) to provide an action-forcing mechanism, by putting operator pressure on states to develop their programs in a timely way. As introduced S. 7 extends this to 2½ years. There is no reason why a moratorium should take place. If the Secretary of the Interior sees that a State is not developing an acceptable regulatory program, he can implement a Federal program.

Committee Recommendation: Amend Sections 504 and 506 to avoid possibility of shutdown.

4. *Federal Preemption Administration Recommendation:* "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. * * * 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."

Committee Comment: The interim program set out in S. 7 represents a compromise which moved the House away from a Federally-run program. Lack of State enforcement of programs which looked good on paper has been a major problem in the past.

Committee Recommendation: No amendment.

5. *Surface owner consent. Administration Recommendation:* "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 existing law."

Committee Comment: The Administration's position is the same as that of the original Senate bill. This provision, the major bone of contention in the Conference, is a delicate compromise which is best left untouched.

Committee Recommendation: No amendment.

6. *Federal lands. Administration Recommendation:* "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."

Committee Comment: This provision stems from last year's Senate bill. The Committee believes it is desirable to require surface mining on Federal lands to meet standards at least as stringent as those established by the State in which the mine is located.

Committee Recommendation: No amendment.

7. *Research centers. Administration Recommendation:* "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."

Committee Comment: The Administration's objection ignores the important training aspects of the provision, (Title III). This provision was in both the Senate and House bills. It stems from a bill vetoed by President Nixon in the 92nd Congress.

Committee Recommendation: No amendment.

8. *Prohibition on mining in alluvial valley floors. Administration Recommendation:* "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."

Committee Comment: Last year the House bill banned surface mining in alluvial valley floors. The language of S. 7 as introduced (Section 510(b)(5)) is a compromise. Alluvial valley floors in the West frequently have highly significant agricultural values. In view of the world food situation, some special protection of such valley floors which are significant to farming or ranching operations seems justified.

Committee Recommendation: Amend 510(b)(5) to make it more precise and somewhat more limited in application.

9. *Potential moratorium on issuing mining permits. Administration Recommendation:* "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."

Committee Comment: Section 510(b) of S. 7 bars the issuance of surface mining permits for lands under study for designation, until such time as the study has been completed at which time the ban is lifted if the area is not designated as unsuitable for mining. This ban is necessary since the section also precludes the designation as unsuitable for mining of any area in which mining is already ongoing. The Administration's proposal could lead to having all reviews precluded by the granting of permits prior to a determination being made on designation.

The fear that blanket moratoria will occur is unfounded for two reasons. First, each study for designation is made only on a case by case basis upon specific petition. Second, S. 7 contains specific requirements for petition. The Secretary is required to issue regulations defining those petitions to be considered valid, to preclude frivolous requests.

With regard to Federal lands, Section 522 (b) requires the Secretary to conduct a review of all Federal lands to determine areas unsuitable for mining. But in order to avoid locking up Federal coal in the case of a protracted study (such as the wilderness study), there is no moratorium on leasing during the period of review under the provisions of S. 7.

Committee Recommendation: 1. Amend 522(a) to require the regulatory authority to render a decision on a petition for designation as unsuitable within one year. 2. Amend 522(b) to state specifically that Federal coal leases may be issued during the review period.

10. *Hydrologic data. Administration Recommendation:* "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."

Committee Comment: The Administration's proposal appears to be based on a misinterpretation of S. 7 (Section 507(b)(11). There is nothing to preclude the applicant from using already available data in his permit application. The language proposed by the Administration permits waivers of the "determination of the hydrologic consequences of mining and reclamation" not just data submissions. This determination is very important, particularly in arid and semi-arid areas.

Committee Recommendation: No amendment.

11. *Variances. Administration Recommendation:* "S. 425 would not give the regulatory authority adequate flexibility to grant variances from the lengthy and detailed performance specifications. The Administration 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."

Committee Comment: The Committee believes that unlimited variances would greatly weaken the bill by possibly becoming the rule rather than the exception.

A provision allowing variances because of equipment shortages in the interim period was in the House bill last year. It is not included in S. 7 because of testimony and information that interim standards could be compiled with using existing equipment, so such variances were not needed.

Committee Recommendations: No amendment.

12. *Permit fee. Administration Recommendation:* The requirement in S. 425 for payment of the mining fee before operations 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 would have the authority to extend the fee over several years."

Committee Comment: There is nothing in S. 7 as introduced to explicitly preclude a regulatory authority from doing this. The Joint Statement of Managers on S. 425 expressly stated that annual payments would be acceptable.

Committee Recommendation: Adopt Administration amendment.

13. *Preferential contracting. Administration Recommendation:* "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."

Committee Comment: S. 7 (Section 707) provides a preference only to operators "who can demonstrate that their * * * operation, despite good faith efforts to comply with the requirements of this Act, have been adversely affected" by regulation. The Secretary would incorporate the preference into his regulations.

Committee Recommendation: No amendment.

14. *Any Class of buyer. Administration Recommendation:* "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."

Committee Comment: This provision (Sec. 523(e)) was included in S. 7 to protect rural electric cooperatives and other small purchasers. It is not intended to abrogate existing contracts. S. 7 prohibits only "unreasonable" denials, not any and all denials.

Committee Recommendation: No amendment.

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

Committee Comment: The provision for contract authority (Sec. 714(a)) is designed to permit the Secretary to begin to implement the Act rapidly without waiting for appropriations. This seems necessary in light of the specific statutory timetable.

Committee Recommendation: No amendment.

16. *Indian lands. Administration Recommendation:* "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."

Committee Comment: S. 7 is not intended to require Federal regulation of non-Federal Indian lands.

Committee Recommendation: Adopt Administration amendment.

17. *Interest charge. Administration Recommendations:* "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."

Committee Recommendation: Adopt Administration amendment.

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."

Committee Comment: There are serious safety problems involved, particularly from blasing near "gassy" mines.

Committee Recommendation: No amendment.

19. *Haul roads. Recommendation:* "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."

Committee Comment: This was not the intent of S. 7.

Committee Recommendation: Adopt Administration amendment.

Mr. METCALF. Mr. President, that concludes my preliminary remarks. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I join with the distinguished junior Senator from Montana in urging the Senate to approve S. 7, the Surface Mining Control and Reclamation Act of 1975.

It is worth recalling today that industry has in the past fought strip mining bills far less stringent than the legislation before Congress today. The delay in enacting legislation, caused largely by industry's opposition—and, may I say, not all industry—has brought the nature and scope of the strip mining problem more sharply into focus. The need for strong regulation of strip mining practices is more apparent to more people than ever before. Those who believe that the existence of an urgent need for coal will somehow forestall effective regulation of strip mining are whistling in the dark.

On numerous occasions, including the recent amendments to the Clean Air Act, Congress has shown that it understands the need for careful tradeoffs between energy needs and environmental concerns. But Congress is not prepared to sacrifice legitimate environmental goals.

The essential requirement for an adequate supply of domestic energy resources to support the Nation's social and economic well-being is being increasingly recognized as a major national issue. It is clear, particularly in the case of coal, that we have ample reserves. By all estimates our physical coal reserves are sufficient to meet our needs, even at greatly increased rates of consumption, for hundreds of years. We have an abundance of coal in the ground. Simply stated, the crux of the problem is how to get the coal out of the ground and use it in environmentally acceptable ways on an economically competitive basis.

Federal legislation to regulate coal surface mining and reclamation is a crucial measure to insure an adequate energy supply while preserving and maintaining a satisfactory level of environmental quality.

The committee is aware that representatives of the coal industry and the administration have expressed great concern about possible "production losses" which enactment of S. 7 might cause.

The figures given vary so widely as to render them basically meaningless. For example, the administration has, at various times, indicated "losses" ranging from 14 to 141 million tons per year.

The administration's latest estimates are based on four assumptions:

(1) Coal prices would not increase.

(2) Mining technology would remain at its present state.

(3) New mining areas would not be opened in the West.

(4) Capital investments would not increase in mining and related industries.

It is important to note that the administration expressly states that—

If the reverse of any of the above assumptions occurred, the overall coal production could increase.

In view of the rapid and continuing increase in coal prices and the large number of proposed new coal mines in the West, it appears very unlikely that there would be any significant losses of production.

The fact is that at current production levels, this country has more than 500 years of coal reserves, or as I recall the overall figures, something in excess of 50 percent of all the known coal reserves in the world. It is ridiculous to talk about a diminition in production at present prices, much less those anticipated in the future, and it is even more ridiculous, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations, for example, to areas which can be prudently mined—in estimating the impact of this bill.

S. 7 will internalize mining and reclamation costs, which are now being borne by society in the form of ravaged land, polluted water, and other adverse effects, of coal surface mining. This can be done without significant losses in coal production, under the provisions of S. 7.

Mr. President, I believe that the amendments to S. 7 recommended by the Interior Committee, go a long way toward meeting the problems cited by President Ford as reasons for his veto of S. 425 last year. I see no reason why the President should not sign S. 7 when it reaches his desk.

In this regard, I would remind the Senate and the administration of the pledge I made to the President last December 17 to correct any unanticipated problems which may arise in implementation of the bill during the 2½-year period after its enactment before it comes into full force and effect. I will not be a party to weakening the bill, because of vague fears about possible impacts at some time in the future.

Mr. President, I urge the Senate to approve S. 7 today.

Before yielding the floor, Mr. President, I want to pay tribute to the Senator from Montana (Mr. METCALF) who, as chairman of the Subcommittee on Minerals, Materials, and Fuels, has led the committee efforts to develop surface coal mining legislation during the last 3 years. His tireless efforts are, I believe, soon to bear fruit in enactment of a firm but fair Federal statute to guide the States in regulating strip mining. The American people, and particularly the citizens of Montana who are probably about to witness a great increase in coal mining in their State, owe him—as well as the Nation owes him—a great debt of gratitude.

Mr. President, I yield the floor at this time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, for more than 2 years Congress has given very close attention and has put much effort into a bill to provide some basic law that would govern the removal of coal by surface mining methods. I am one of the 11 who asked that the bill be reported by the Committee on Interior and Insular Affairs. I did that despite the fact that I have real misgivings about some of the provisions that are contained in the bill.

First, let me say that I have been working very closely with the distinguished junior Senator from Montana (Mr. METCALF). Not only have we worked together here, but we have cosponsored amendments. I think one of the most important amendments that was adopted by the Committee on Interior and Insular Affairs is the so-called Metcalf-Hansen amendment.

In addition, we have actually made on-the-site investigations of strip mining operations in the West. We have also held hearings chaired by Senator METCALF in Wyoming cities as well as in Montana cities.

The distinguished floor manager of the bill mentioned that there is a great diversity of conditions nationwide, and he could not be more right about that. I share that feeling. Because it is my feeling that there is a great diversity of conditions nationwide, it seems appropriate that this bill should not deal too specifically with problems that may be particularly important to one section of the country or another. I think it should incorporate into law certain broad guidelines. I believe that many Senators will agree with those of us who voted to support it that, first of all, we want to be certain before the lands are mined, there will be a guarantee that the lands can be reclaimed and will be reclaimed. That is the first and the most important provision of this bill—to set up a permit system and to set up a reclamation requirement which will ensure that when those sections of the country have made their contribution to the Nation's energy supply through the production of coal, those lands are going to be reclaimed in a fashion that will insure their continuing productivity, their acceptability so far as other uses are concerned, which include recreation and just plain aesthetics.

I think we have done a good job in insuring that that sort of end result is guaranteed.

In addition, coming from the West, as does the distinguished floor manager of this bill, we want to be certain that the surface owner is treated fairly, because most of the coal that we are talking about in this bill, for the short term, will be federally owned coal, as distinguished from privately owned coal. Not all coal that will be dealt with fits into that category, but much of it does.

Of course, Senators know that this is a problem unique to the West, where the Federal Government a number of years ago kept title to the minerals underlying the surface, when the amount of land that could be homesteaded for a grazing homestead was increased from the 160-acre initial limitation to a larger acreage.

For a long time, this problem really did not come into focus, because earlier in this century there was not the appropriate machinery to strip away the overburden and there was not the technology developed at that time, either, which permitted the coal operator to remove the overburden as it is now being removed in the West and in some parts of the East, to take the coal out and then either to leave it, as was oftentimes done in Appalachia, or to put it back together, as we are now insisting it be done in the West. But that is all changed. It is changed because we have the machines now that can strip away enormous amounts of overburden. We have machines which make it profitable to utilize this source of energy, despite the fact that it may be under a rather significant amount of overburden. That is one of the problems with which we are dealing.

So I say that the second goal that I have in mind—and I am certain it is shared by the distinguished Senator from Montana—is that we want to be sure that the man who owns the surface only is treated fairly; because at the time the Federal Government withheld the title to the minerals and kept that title in the name of all the people of the United States, the typical homesteader in the West had little, if any, reason to believe that the surface mining operations we now know about and have witnessed would ever have taken place.

Third, I have a concern that I am certain is shared by many people—I believe most people—that we want to make sure that in this time of national energy and emergency, coal can fill the unique role that is now offered to it.

I invite attention to the report on the congressional program of economic recovery and energy sufficiency. Most Senators know that this is the Democratic report that was put together and was intended to be the answer to the President's energy message. Without going into any differences that may exist between the President's energy message and the program that has been put forth by the Democratic majorities, both in the House and the Senate, let me say that, along with the President of the United States, our colleagues on the other side of the aisle recognize and call attention to, under table 6, the important role that coal can play. They point out that the production goals for 1975 for coal contemplate 1.9 million tons per day, which translated into million barrels of oil equivalent a day would be 7.5 million barrels of oil per day. This report indicates that by 1980, that figure would

probably rise, or hopefully would rise, under their program, to 2.52 million tons per day, or the equivalent of more than 10 million barrels of oil per day; that by 1985, the coal production that they hope could be brought about would increase to 3.81 million tons per day, or the equivalent of 15 million barrels of oil a day.

So there is no argument between the Democrats and the Republicans, between the administration and Congress, over the role that coal can play in America's economy and short-range future.

This brings to my mind the next point: In addition to insuring that we have a good reclamation law passed which will guarantee that land will be reclaimed once it has been mined, in addition to being certain that we treat the surface owner only fairly, our third goal must be to make sure that the Nation has access to its coal supply. This bill does have a reclamation program. The criticism I find with that program is that it may spell out in too precise detail what should be done in the way of reclaiming the lands once they are mined.

I say that because what may seem obvious, what most of us, at first blush, might agree would make good sense, does not always add up that way when we look at the facts. Generally, the concept that lands are to be returned to their original contour or to that contour insofar as is practicable sounds like good sense. It does, until you have visited or until you have seen what has happened some places in Appalachia where, because of the uniqueness of the contour of that country, the topography of the country, occasionally it may make good sense not to try to put the land back together as it was before the mining operation began. Sometimes the need for flat areas is so compelling as to recommend—as has indeed been done in a few places in Appalachia—advantage be taken of the mountain of soil produced by mining by leveling it.

One little school that I read about and saw pictures of was able, for the first time, to engage in football because only following a surface mining operation, with the spoil material leveled out, was that particular high school able to have a football field. In other places, housing developments, hospitals, shopping centers, and parking lots have evolved because a city or a community wanted to take advantage of the way earth has been moved. These, of course, are decisions that I think ought to be left, as nearly as they can be, to local communities and to States and the appropriate environmental agencies in those political subdivisions.

There have been included in this bill funds to bring about a reclamation of orphan lands. These are lands which were surface mined in times past and now remain essentially as they were at the conclusion of the mining operation. The finger has been pointed at industry. It ought to be said, in all fairness to industry, that the time was in this country when our only seeming concern was to try to get a product made, produced, or to have it available at the lowest possible cost. Certainly, this has been true insofar as surface mining in times past was concerned. No one said, or at least not many people said, "Restore the land." We now know that we do not want to continue such a policy and very rightly, I think. With my full support and with the support of every one of us on the Committee of the Interior and Insular Affairs in the Senate, we are insisting that lands be returned so as to insure their continuing contribution to a better, stronger, more beautiful America.

We talk about orphan lands. Moneys will be set aside, according to the terms of the Senate bill, to provide the necessary funds to restore these orphan lands. But of even greater urgency, of even greater immediate concern than trying to restore the damage done by past surface mining operations which formed orphan lands, is the problem of subsidence.

In a Wyoming city, Rock Springs, we know firsthand what subsidence means. It is the result of the shifting of earth that occurs, oftentimes long after an underground mining operation has been completed and abandoned. In Rock Springs, in Pennsylvania, most pointedly depicted in Scranton, which I visited, in many places in Appalachia and throughout other areas of the Middle West, eventually, the pull of gravity caves in the timbers that have been put in mines or the rock formation above a coal deposit, and the earth begins to settle. If this occurs in areas where people do not live, it does not make a pretty picture; oftentimes, fire follows. But it becomes a very serious problem when it occurs where people live. That is the situation in Rock Springs, Wyo.

Old people, and young ones, too, for that matter—but I am particularly concerned about older people whose productive years have long since passed, who have only their home and what they have been able to save or what they receive in the way of social security or pensions—find that their house foundations are cracking and their houses are shifting and settling. This is happening right now in Wyoming and it is happening in other parts of the country. It is a very serious problem. I think it is a problem that we need first to address of all of the problems that we have to be concerned about.

There are many things that happen when foundations lose the support of the earth beneath them. Water mains break. Sewer lines rupture. Gas lines break or fracture. All of these things present very real problems to people who live in towns and cities where that sort of subsidence is occurring. Houses have exploded because a ruptured gas line has seeped gas into some of the lower areas and a spark has ignited the gas. More times than not, it has been found that the cause of the problem was a ruptured natural gas line.

In other places, underground fires, which inevitably result when coal is removed from underground and oxygen comes in contact with coal, fire, sooner or later, always follow. This, too, is a real problem, because the fumes, the carbon monoxide, that result from that sort of incomplete combustion, may follow water pipe lines, sewer lines, gas lines, or just cracks in the Earth, and seep into basements of homes, and after having filled the basements, seep into other areas. Asphyxiation has occurred in many homes over the long course of underground mining in this country. Carbon monoxide fumes have seeped in during the night and people have passed on in their sleep. Entire families have been found dead.

These are some of the problems we have to address and we are assured can be addressed properly with the reclamation money that is included in this bill by virtue of a tax on the coal that will be taken by surface mining operations, along with a lesser amount per ton that will be contributed by underground mining operations.

In the West, where we do not have very much water in many places, and generally not enough any place, our concern for alluvial valley floors is high on our list of priorities. I believe that the inclusion of the specific language that we find in the bill goes beyond what should have been put in the bill. I say this because there seems to be a considerable lack of agreement among experts as to the precise boundaries of alluvial valley floors. We are using terms of art that are subject to different interpretations and I think that this issue might better be addressed by the respective States than to have it included, as it presently is, in the bill.

We speak about giving the surface owner, through the surface owner consent provision, the right to say whether or not mining shall occur. I support that provision. I support it because we are introducing a new concept that was not contemplated at the time the Federal Government first began to withhold title to its coal as it passed title to the surface of its lands to homesteaders in the West.

I think that by virtue of the alluvial valley floor section, section 510(b)(5) in this bill, we are, in effect, likely to deny to the surface owner whose surface covers an alluvial valley floor, as ultimately determined by a court, the right to say whether there shall be any mining. I think that this section of the bill should be deleted from the permit approval or denial section. There are adequate safeguards in other sections of the bill to protect alluvial valleys. I have proposed an amendment that would accomplish that.

I have also offered an amendment that deals with the right of the surface owner to grant permission or to deny permission to an energy company, by surface methods, to extract coal from the ground underlying the surface which he owns.

My amendment proposes that if, as this bill does, we give the surface owner the right to grant or to deny permission, then we ought not to determine as strictly as we have done what he may receive.

There will be those who will say that without the provisions in the bill, absent the restrictions that are contained in the bill, the rancher is going to have a windfall profit. I suspect that whether you agree with that allegation or not depends upon a definition of terms. What is meant by a windfall profit?

I can say that the distinguished Representative from the great State of Montana, Mr. MELCHER, put together some figures that he presented to the Senate-

House conference committee last December when we were approving the bill which was later vetoed. When we were considering this particular provision, Representative MELCHER introduced into the RECORD testimony that indicates that even if a rancher were to be paid as much as a $1,000 an acre, which sounds like a lot of money and indeed is a lot of money, in terms of addition to the cost per kilowatt-hour for light available in the city of Washington, D.C., or the city of New York, the increase would be so limited as to be almost infinitestimal.

In other words, the amount of coal underlying those lands in the Powder River Basin in Wyoming and Montana, North and South Dakota, is so rich and so thick that to add an additional $1,000 per acre to the cost of coal would have practically no effect. But why do I believe that we ought to take away all prohibition as to what the surface owner can receive? For this reason: to see that the surface owner is treated fairly. If he has a right to grant permission or to withhold his consent, and the right freely to negotiate with an energy company, then no one can say he does not have a chance to protect his own best interests.

What will prevent a ripoff, which some would say would result from occurring? My answer is that there is a great amount of coal in this country. The distinguished Senator from Washington (Mr. JACKSON) said not too many minutes ago that at the present rate of consumption, there would probably be sufficient coal to last for 500 years or more. I have little doubt that long before that time is reached, we will be using other forms of energy. But the fact is there is a lot of coal, and every rancher who is given the right to grant permission or withhold permission knows that every other rancher is in the same situation. If a coal company is unable to make a deal with Rancher X it may very well go to Rancher Y, and from the sort of competition which will result outlandish deals will not be negotiated. Given the consent with the ability to negotiate that I have outlined, I am certain that any rancher will know that his is not the only coal that might be mined; he could ask for too much or hold out too long, and have the train leave the station without him.

That would be the main reason that reasonable deals will be worked out between energy companies and ranchers.

It does have this great added advantage insofar as my third major objective is concerned. That is making certain that the Nation shall have access to its coal. If a rancher has a right to withhold consent, but is not given a chance to get what he feels he should receive or is fair to him, then very probably he will say no. When one considers the checkerboard ownership pattern of land in the West, one cannot help but be struck with the fact that if a good reclamation plan is constructed for a block of coal land, it is necessary to have consent from every single landowner involved.

In some respects the land ownership pattern resembles a checkerboard. If landowners of 60 squares have given consent to a mining operation, and 4 have not, mining could not take place under those 4 squares. To remove the coal under 60 squares but not in the other 4, would result in 4 squares sticking up like toadstools in the middle of that checkerboard. If you think also about the fact that most of the ranchers in the West have some irrigation operations where they raise either their hay or perhaps other crops, you can readily appreciate that it would be impossible to get water up onto the tops of those toadstools, the areas where mining had not occurred, if the ground around them was lowered by, say, 50 to 75 feet.

So my point is that unless a rancher has an opportunity to enter into negotiations with an energy company, confident that he can work out a fair arrangement to him, he will withhold his consent, and if he withholds his consent, then his refusing to agree to the mining operation could indeed make it impossible for an energy company to put together a reclamation plan that would be acceptable, and thus deny the Government of the United States access to its coal.

These are some of the concerns that I have about this bill. I voted for the bill. I voted to report it. I am pleased with many of the things that it does. But I think that before we pass it, the country needs to know what is at stake.

I have already pointed out that the administration and Congress, both the majority and the minority parties in Congress, have agreed on the immense role that coal has to play in the coming years, and that it is of great national importance to all of us that we do have access to the coal.

I hope Senators can appreciate that there are many men who homesteaded—some second and third generation ranchers, who do not own the coal under their lands. We should not turn our backs on them. They deserve fair treatment.

Many of these people have put in one lifetime, or maybe two or three lifetimes, of effort into their ranching operations, and I do not think it is unfair at all to see that they are granted their rights in being able to withhold their consent to a mining operation, if that be their choice.

On the other hand, the best way to insure that they will grant their permission is to give them the opportunity of entering into negotiations which will result in a fair deal to them and, if that is done, if we can assure that end result, we will assure the achieving of our third objective which is that the Nation can gain access to and make use of the coal that it owns.

In closing, Mr. President, I point out that the Metcalf-Hansen amendment, of which I am proud, goes beyond the typical piece of legislation being passed by Congress, and gives to each of the States the right to exceed, if they choose, the reclamation requirements and standards and degrees of perfection that may be written into the Federal bill.

If the State of Montana, and the State of Wyoming have, indeed, they have done, decide they want to exceed the Federal law, those States will be able to do that. The Metcalf-Hansen amendment says that tougher State law shall be controlling.

I am proud of that amendment. It helps keep faith with what Senator METCALF and I told our people in Wyoming and Montana, that we wanted to have the States given that right.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. HANSEN. I am very happy to yield.

Mr. METCALF. I think it should be understood at this time if the State of Montana, or the State of Wyoming, or any other State passes a stronger law than this law it shall be controlling on Federal land, on land owned by the Federal Government, and any constitutional question that should be raised insofar as the Federal Government is concerned is taken care of by the delegation of power to administer that Federal land to that State administrator or the State government concerned.

So it is not only on private land, it is not only on State land, but it is also the Federal land contained within that area that is covered by our amendment that says the State of Montana, the State of Wyoming, or the State of Utah, or any of those, especially the public land States, if they pass stronger controls or, in fact, say: "We are not going to allow strip mining in our State," then the Federal Government will go along and concur in those provisions.

Mr. HANSEN. I thank my distinguished colleague very much for spelling out in the precise fashion in which he has exactly what the Metcalf-Hansen amendment does.

I make that observation to say again that the Senator from Montana (Mr. METCALF) and I have insisted all along that we wanted the States to have the right to exceed the thrust and the demands of the Federal law if they chose to exercise that right, and I am pleased indeed that this amendment has been accepted. I think it has made it possible for us to keep faith with the people we are privileged to represent here, and it has been an encouragement to the State of Montana and to the State of Wyoming, as well, to give extra consideration to this kind of legislation, knowing full well that if and when this bill becomes a Federal law it will underscore the rights of the separate States to have their own input into the surface mining laws of the country.

Mr. McCLURE. Mr. President, will the Senator from Wyoming yield at that point?

Mr. HANSEN. I am happy to yield.

Mr. McCLURE. I thank the Senator for yielding, because I intended to make some comments on the amendment adopted by the committee within the committee but, in terms of the remarks of which have been made, the amendment to delete surface-mined anthracite, in which the exemption favored only one State and allowed that State to have lower reclamation standards than the other 49 States would have to have and which seemed to me to be an inconsistent provision, inconsistent with the general thrust of the bill, if we really were serious about requiring reclamation

standards of all surface mining; that exemption was in the original bill, and by unanimous voice vote at the time of the quorum, at the time of the offering of the amendment which was adopted, it would then have the effect of requiring that in this one State the reclamation standards for surface-mined anthracite would have to be at least as high as the reclamation standards from all other surface mining in the United States. Is that the understanding of the Senator from Wyoming?

Mr. HANSEN. That is the understanding of the Senator from Wyoming.

Mr. McCLURE. I think it is consistent with the statement the Senator from Wyoming was just making that we would permit the States to set higher standards if they wished, but in no instance would they be permitted to set lower standards than required by the general bill.

Mr. HANSEN. That is my understanding.

Mr. McCLURE. I see the Senator from Montana nodding also.

Mr. METCALF. That is also my understanding.

Mr. McCLURE. I thank both Senators.

Mr. METCALF. But I also want to underscore that it applies to Federal land as well as the other land. Now, the anthracite proposition in Pennsylvania applies to a special kind of coal, and it would certainly apply to lignite or bituminous coal, too. But out in the West what is so important is to emphasize that it applies to the Federal land, which is 37 percent of the State of Montana and about 90 percent of the State of Nevada and in between——

Mr. McCLURE. And 66 percent of my State.

Mr. METCALF. Yes.

Mr. McCLURE. Although we are not fortunate enough to have any coal or lignite, so we are not concerned about the impact of this bill in my State even though the Federal Government holds title to two-thirds of the State. But I do thank both of the Senators for underscoring the determination that the committee had, and to thank the committee in adopting the amendment which I offered in the committee meeting to delete the exemption for surface-mined anthracite.

I think it is important to note it was a provision which was inserted in the conference last year after it had left the Senate, and it did not have its genesis in the Senate or in the administration bill, and I suspect there will be efforts made again to favor that one State and one company that will be favored by it if it were in the bill, and I expect those efforts will be renewed either in the House of Representatives or in the conference between the House and the Senate.

I would hope that the record we are making will stimulate the people who will serve on that conference to hold steadfast to their determination that one State and one company not be exempted from the provisions of this act.

I thank the Senator from Wyoming for yielding.

Mr. HANSEN. I appreciate the comments by the distinguished Senator from Idaho.

Mr. President, just a couple of more points. The distinguished chairman of the full committee, Mr. JACKSON, spoke about the ravaged lands of this country, and certainly I would be among the first to agree with him that there are lands that have been ravaged. We want to put them back together again. Part of that ravaging has resulted from underground mining as well as from surface mining.

The Senator from Washington spoke about the polluted water in this country, and I think it is fair to say the biggest source of polluted water is the drainings from underground mining operations, and not from surface mining operations. That underscores again the importance of reclamation funds which shall be contributed to by the coal production from underground mining as well as from surface mines.

There was an effort made to lower the contribution from coal production from underground mines and to increase it from the surface mines.

That was opposed by a majority of the members of the Interior Committee. We kept the reclamation fee at 35 cents per ton for coal produced from surface mines, and at 25 cents per ton for coal produced from underground mines. But I believe that most of the early funds that will be spend from that fund will go to the minimizing or eliminating of the problems of subsidence and the problems of underground coal fires.

The Senator spoke also about some of the other problems we have. Black lung is a very serious problem. We have many former underground miners still living in Wyoming, and black lung is a problem that has resulted in the death of a number of them, and has resulted in an impairment in the health of a number of others.

That is a disease that is peculiar and unique to underground mining operations, as far as I know. There is practically no incidence at all of black lung from surface mining operations.

Let me close by saying that there are many things that need to be considered carefully and objectively by the Senate. We will be debating this bill tomorrow, and I look forward to having amendments passed that I think will improve the bill and to its being reported out and signed before long.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I want to commend the Members of the Committee on Interior and Insular Affairs who have worked diligently to bring the Surface Mining Control and Reclamation Act of 1975, S. 7, to the floor of the Senate so early in the 94th Congress. Their efficiency attests their understanding of the gravity of the environmental problems posed by coal surface mining.

I also want to thank the committee for accepting two modifications of the conditions and limitations placed upon the orphan mine reclamation program to be administered by the Department of Agriculture, section 404 of the bill. My especial gratitude to Senator HANSEN for his help with these amendments, which I sincerely feel are critical to the effectiveness of this program.

I will have more to say about the amendments in a moment, but first let me offer a few brief observations about the fundamental thrust and impact of this bill.

Several years ago Senator John Sherman Cooper and I introduced a bill, S. 3000, in the 92d Congress. That bill embodied my fundamental philosophy about governmental control of coal surface mining. It provided for reclamation that would both prevent the troublesome offsite impacts of erosion and siltation, but it required also that reclamation restore the character of the land as it existed prior to mining.

This position, which is essentially that adopted by the committee, has been attacked by those who feel it is too stringent, arguing that the economic or market value of the lands affected is much less than the investment required for total reclamation and that a lesser degree of restoration might effect equal environmental protection. I remain unpersuaded by this argument because, having seen the devastation and disruption of underregulated surface mining in the Appalachian region, I recognize that a reclamation standard for coal surface mining is a plan for geologic modification of great areas of land. A standard which does not restore the character of the land but addresses soil stability and drainage problems will only provide pure water to communities robbed of their pride and economic potential. It is a difficult quality to articulate, but the stark, devastated hills of Appalachian state it eloquently.

The bill before the Senate recognizes this substantial economic impact and specifies a standard which will protect the character and use of mine sites as well as troublesome offsite impacts.

There are several other concepts and provisions, which S. 3000 contained and which are incorporated in this bill today. I outlined these in my statement supporting passage of S. 425 last December and would like to repeat them briefly:

S. 3000 targeted for control and regulation of the environmental problems associated with coal surface mining. S. 7 while it has a somewhat broader scope, is essentially targeted to treat these same problems. I know that the Interior Committee is concerned, as am I, with the environmental impacts of other types of mining, but by focusing the effort in this legislation immediate and effective control can and will be brought to bear upon the most serious social and environmental problems associated with mining.

S. 3000 required a performance bond payable to the Government and sufficient in amount to cover the costs of reclamation by a third party should the permittee default. This bond was to remain in effect throughout the period of mining and for 5 years thereafter. I am pleased that S. 7 contains an almost identical provision.

S. 3000 recognized the economic and administrative problems of repairing the millions of acres of abandoned surface mines in the economically depressed and mountainous areas of the Appalachian region. In response to this situation the bill proposed to place authority for watershed reclamation under the Soil Conservation Service. I am pleased that the conferees have preserved a role in orphaned mine reclamation for the SCS. In my opinion the SCS acting in con-

junction with the soil conservation districts can play an effective role in repairing the devastation caused by underregulated strip mining these steep-slope areas of Appalachia. The Service has the expertise and capability to handle this type of soil treatment program efficiently and at the least cost.

As a long-time advocate of stringent restoration criteria as the basis for strip mine regulation, I am pleased that S. 7 now provides for restoration of both premining contour and use. My concern expressed during floor debate on S. 7 earlier over the variance for so-called mountaintop mining, where the entire mountaintop is removed in order to get to the coal, is somewhat diminished by the requirement for consideration of sound land use planning in the approval of permits for such mining.

COSTS OF THE BILL

Mr. President, there has been a great deal of comment about the potential costs of S. 7. I would like to offer a few observations regarding this impact of the bill as it relates to eastern bituminous coal. The relevance of these observations is, I hope, enhanced by the fact that over 90 percent of the total coal production in the United States through the beginning of this decade came from eastern coal fields. Certainly the relevance of the bill for eastern coal surface mining is made clear by the fact that the Appalachian region still has over 25 billion tons of strippable reserves.

During the last 2 years the Tennessee Valley Authority has conducted two coal mining and reclamation demonstrations in Campbell County in eastern Tennessee. The average slope on both of these sites was 26° and both operations were designed to control offsite water impacts from mining, to restore the contour of the site, and to revegetate the site to control postmining drainage problems. These were total reclamation projects and while the techniques employed may be improved with practice the cost statistics which they provide are of interest in light of the present coal market.

The first experimental site involved a multiple-seam operation with an extensive and complex plan of overburden movement. Because the coal prices had soared to over $30 per ton during the time of operation the mine operator was able to mine a final bench width of 210 feet on a 26° slope, an extremely wide bench on such steep slopes. The production costs derived from this multiple-seam operation including transportation costs for delivery to the rail tipple was $10.97 per ton.

On an adjacent site a single-seam demonstration using the "Pennsylvania block cut" was conducted. The costs were computerized and tabulated for various thicknesses of coal. The bench width at this operation was 140 feet again on a 26° slope. The final production costs were $10.65 per ton delivered at the rail tipple.

Let me emphasize that these statistics include the total cost of reclamation to the approximate standards of S. 7.

Secretary of the Interior Rogers Morton sent to the Senate Interior Committee an estimate of the average cost per ton of H.R. 25, which was identical to S. 7 as introduced. Those statistics show an additional cost per ton of 65 cents for permit preparation and fees and the reclamation fund fee. This would bring the average cost per ton for steep-slope Appalachian surface mine production to about $11.50 per ton.

Last week I asked representatives of the Tennessee Valley Authority to give me an estimate of the present market price of eastern coal. The price of coal over the past 12 months has varied dramatically with some utilities paying as much as $50 per ton during the fall of last year. TVA during that period experienced several contract price escalations some of which more than doubled the price of the coal under contract. In September TVA paid its highest price in history for coal—$30.53 a ton, more than triple its average long-term coal price.

Presently, however, the cost per ton has level off around $20 per ton. Thus, stripmined eastern coal costing $11.50 to produce is generating a substantial margin. In the Appalachian region contour mining will produce an average of over 4,000 tons per acre stripped. This means that the stripminer who is now selling coal at $20 per ton should make about $34,000 above overhead for each acre mined, using all the increased costs associated with S. 7 as a basis for calculating the overhead. Under these circumstances I am highly skeptical that S. 7 will cause any appreciable change in the market price of coal.

One further observation: Critics of the bill assert that the 35 cents per ton fee on strip mined coal will be inflationary and costly to the public. As I have just pointed out there is no reason why this fee should affect the market price of coal in the slightest way. But I find this assertion troublesome for another reason; there are over 2.5 million acres of orphaned land in the United States which it will cost almost $10 billion to reclaim. The Interior Committee estimates that the fee contained in S. 7 will generate $165 million per year. At this rate of funding it will take over half a century to totally repair this orphan mine problem. While this is certainly not an extravagant program, I want to commend the committee for beginning to address this environmental debt. To do less, as some are asking, would be to abdicate responsibility for this environmental tragedy.

Mr. President, this orphan mine reclamation program is the hope of the Appalachian region where most of the millions of acres and thousands of miles of devastated lands and rivers are located. I deeply hope that Congress will not be persuaded to remove this hope from the people of this region in order to save a few pennies in the electric bills of the Nation.

SCS RELAMATION PROGRAM

Mr. President, I mentioned earlier that I had offered and the committee accepted two amendments to section 404 of the bill, which establishes an orphaned mines reclamation program under the Secretary of Agriculture to be administered by the Soil Conservation Service in conjunction with the soil conservation districts.

While these amendments do not make any fundamental change in the authority provided by the bill and should not significantly affect the costs of the program, they will be key to the effectiveness of the program in the steep-slope region of Appalachia.

Last year the conferees on S. 425 in an effort to protect against potential windfall profits limited the size of each project of the SCS to 30 acres per landowner. A survey of the coalfields of southwestern Virginia, which should be typical of the Appalachian region, shows that while about 50 percent of the abandoned mines in that area are under 30 acres these mines represented only about 15 percent of the total acres disturbed.

For this reason I offered an amendment to increase the acreage limitation to 100 acres per landowner. In my estimation such a limitation will adequately protect against any windfall, and will enable the SCS program to address a substantial portion of the Appalachian orphan mine problem.

My second amendment allows the Secretary of Agriculture to reduce the matching share requirement where the main benefits of the soil treatment program will be off site and where the share requirement would probably prevent the landowner from participating.

The reclamation program established in section 404 does not provide for site restoration. It provides only for soil treatment, drainage repair, and revegetation. The main purpose of the program is to begin the regeneration of the site to screen the highwall and spoil piles and to end water pollution by siltation from the site.

It is unlikely that the economic value or the utility of the mined site will be significantly improved without regrading and contour restoration, which the program does not include. It is therefore likely that many landowners will be unable or unwilling to contribute to the program an amount equal to 20 percent of the project costs, which may run to several hundred dollars per acre. Thus an inflexible share requirement would frustrate the effectiveness of the program in repairing these abandoned sites and the esthetic and siltation problems would continue.

In the State of Kentucky, where the broad form deed has been in effect for years, the share requirement would add insult to injury by requiring landowners who received no economic benefit for the devastation of their lands to bear a financial burden amounting often to over half its value for the repair of strip benches which have generated deep local resentment.

My amendment would not eliminate the matching share requirement, however, it would simply allow the Secretary of Agriculture in his discretion to modify the requirement in specific cases to reflect the benefits which might accrue to the landowner, his share in the profits of the mining operation, and his ability to contribute to the project. Ample protection is still provided against windfall profits, since the Secretary may still require in any appropriate instance the full matching share.

It is impossible to estimate the cost of the amendment, since it will be applicable in an undetermined number of circumstances. I would observe, however, that to the extent that the provision makes possible the accomplishment of soil treatments project where the inflexible share requirement would have frustrated these, the cost of the amendment will be directly proportionate to the effectiveness of the program. The amendment, of course, will not change the present funding arangement in the bill for orphan reclamation and will *not* therefore increase the cost of the bill.

I want to thank the committee again for accepting these amendments.

I ask unanimous consent that a copy of a letter from the National Association of Conservation Districts endorsing these changes be inserted in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAKER. Mr. President, I think that the bill before us, S. 7, reflects a responsible attitude toward both the control of the environmental impacts of coal surface mining and toward the need for expanded coal production. It is a careful balancing of these interests and will enable coal to play its rightful role in our effort for energy independence without causing unacceptable environmental harm. I urge my colleagues to support the bill.

EXHIBIT 1

THE NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS,
Washington, D.C., February 21, 1975.

Hon. HOWARD H. BAKER,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BAKER: The purpose of this letter is to support the two amendments which you are proposing for the Reclamation of Rural Lands authority in S. 7, the Surface Mining Control and Reclamation Act of 1975. Both amendments come in Section 404(d).

The first amendment would change from thirty acres to one hundred acres the limit of help to an individual land owner. This amendment would make the proposal much more realistic. If an owner has 100 acres of land which needs rehabilitating and he is limited to assistance on 30 acres only, he most likely would not rehabilitate any of it because of the extensive costs to him. The 30 acre limitation would preclude assistance in many watershed areas.

The second amendment would make an exception in cost sharing arrangements. There are a limited number of situations, primarily but not exclusively, in the Appalachian Region where the owners of the surface cannot justify contributing to land reclamation costs. They could not hope for any immediate return on their investments, and over the years could not recover a token part of the amount spent for reclamation.

Many of the present owners did not reap the returns from mining their lands for minerals and fuels. In addition, the primary benefits resulting from reclamation will be off-site and for the general public rather than for the present owner of the land, especially benefits related to water quality, wildlife and aesthetics. In those situations where acquisition under other sections of this bill is not feasible, the federal government should bear the total costs of reclaiming lands which mitigate against the public interest.

The National Association of Conservation Districts has repeatedly testified before Congressional Committees in favor of a national program of surface-mine reclamation. We favor the above referred to amendments.

Sincerely,

RAY HEINEN,
Director of Public Affairs.

Mr. METCALF. Mr. President, unless there are any further opening remarks, I would like to say that Senator FANNIN, who is the ranking minority member of the committee, was unable to be here today, and I want to pay the tribute that I paid before to the minority especially to Senator FANNIN, Senator HANSEN, Senator MCCLURE, and Senator BARTLETT, who have consistently participated in the work and consideration in the markup of this legislation.

Several times, as evidenced by our debate on the floor today, we have been in disagreement as to the particular amendments or the consideration with which we were confronted, but never have they left us without a quorum and they have always participated and their constructive assistance has contributed greatly to the kind of a bill that we have before us today.

Senator FANNIN will be here tomorrow, and we have agreement that we will not vote on any of the controversial amendments. I am hopeful that some amendments will be submitted, that various Members will submit their arguments for the amendments, and the Members of the Senate can read in the RECORD some of the arguments which will expedite the consideration tomorrow.

But at the present time, with consent of the minority, I would like to have called up the various committee amendments, which are technical in nature.

I ask unanimous consent that the committee amendments, which are technical in nature, be agreed to en bloc, and that the bill as thus amended be regarded for the purposes of further amendment as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Now, I would ask that the Presiding Officer recognize some of the Members for discussion and submission of their amendments with the understanding that any amendment that is not agreed to will be carried over until tomorrow and the vote will come at such time as the majority leader and the majority whip agree to along with the minority at a later time this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

SENATOR RANDOLPH SUPPORTS ENACTMENT OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

Mr. RANDOLPH. Mr. President, I wish to make brief remarks on the measure before us prior to discussing an amendment which is to be presented.

As is known, I am a Senator representing, with Senator ROBERT C. BYRD, a major coal-producing State of this Union and I am concerned for the continuing uncertainty that plagues the future of the American coal industry.

If coal production is to be doubled by 1985, as required for our country to approach energy self-sufficiency, the industry and the miners who work within the industry must be knowledgeable as to what is to be done. The industry will have to evolve from our present supply-limited posture to one that, in a sense, is limited only by demand.

This will require the development of environmentally acceptable technologies from the mine, through the transportation sector, to the point of end-use. It is essential that here, in the consideration of this important legislation, we recognize that we must establish a definitive Federal policy governing surface mining and the reclamation of surface-mined lands.

In the discussions that have taken place in subcommittee, in committee, in the conference between the Senate and the House last year, and continuing this year, there have been solid attempts to formulate a policy which assures an equitable balance between meeting our country's future needs for secure energy supplies and those national concerns—national concerns that we recognize and, we do not pass by—which are necessary for the maintenance of environmental quality.

It is my considered thinking that the policies set forth in the Surface Mining Control and Reclamation Act of 1974, going back to last year, were consistent with both these national goals which I have emphasized. Therefore, I was disturbed—I am not in any sense angry at the President of the United States for what he did; I know that President Ford is well intentioned now, as he was then, when he did something that I felt he should not have done—when the President vetoed the Surface Mining Control bill last year.

It was on December 18, 1974, that I urged the Chief Executive, as a person in this body who, I think, is familiar with the equities of such legislation, to sign the bill.

Mr. President, I ask unanimous consent to have printed at this point in my remarks the text of the telegram which I have mentioned.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *December 18, 1974.*

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I strongly urge your affirmative action on S. 425, the Surface Mining Control and Reclamation Act of 1974, approved by the Congress earlier this week.

As a Senator from our country's largest coal producing State, I am deeply concerned for the uncertainty that plagues the future of this energy industry. If we are to cope with the energy crisis facing our Nation, it is essential that a definitive Federal policy governing surface mining be enunciated at this time.

During the last four years the Congress and the administration have engaged in extensive deliberation on legislation establishing federal policies to govern surface mining and reclamation of surface mined land. In these discussions every attempt has been made to assure an equitable balance is achieved between meeting our country's needs for secure energy supplies, and also

national concerns for environmental quality.

It is my considered judgement that the policies in S. 425 are consistent with national goals to promote development of domestic coal resources to meet our country's future energy requirements, as well as increased energy self-sufficiency. I recognize that there is a disparity of opinion within both government and industry on the adverse impact of this legislation. Never the less, this measure represents a reasoned attempt to cope with this national problem, which is predicated on implementation by reasonable government officials.

I reiterate my support for your approval of this vital measure.

With esteem, I am,

Truly,

JENNINGS RANDOLPH.

Mr. RANDOLPH. Mr. President, I know that the Senators directly concerned with this issue have been working diligently. I do not wish to indulge in pleasantry for the mere pleasantry of discussing Senators who have been close to the development of this bill. The knowledgeable Senator from Montana (Mr. METCALF), has considered, as have I and others, the Ford administration's concerns and proposed amendments, that may be offered.

The members of the Committee on Interior and Insular Affairs, in particular, Chairman JACKSON and Senators FANNIN and HANSEN—I speak with extra emphasis now because Senator HANSEN is in the Chamber and what I say applies equally to Senator FANNIN, who is not able to be present this afternoon—have, worked diligently. I commend all of them for their efforts. Because of their concern we have moved forward now, early in this session, to expedite the consideration and the hoped for passage of S. 7. By this action I believe we will be serving the purpose of fostering a more adequate energy supply for the United States to meet the threat from the importation of oil—a subject I will not discuss at the moment—by our positive action on this measure.

Does this bill represent a reasoned attempt to cope with this national problem? Yes, it does. It does so by achieving an equitable balance between environmental and energy concerns.

I recognize that there has been considerable disparity of opinion within Government and industry, and within those who represent the miners—the workers in this industry—on the potential adverse impact if such legislation is passed.

In my judgment, however, the policies set forth in this measure are eminently equitable. I am not saying that we may not differ as this bill is further discussed, as amendments are offered. But generally, this legislation is a reasoned attempt—in fact, a successful attempt, I hope—to implement programs for the reclamation of surface mining. It is necessary to do that at the present time.

While I do not need to say this, I think it is important that we underscore the fact that coal is our most versatile domestic energy resource. In coal resources we have four times the energy that the Arab world has in oil. This is a fact people are inclined, perhaps, not to realize it.

So as we move toward enactment of this measure, it is essential to provide certainty—where a very large, at least a substantial, degree of uncertainty exists—in Federal policy as we think of the development of new or increased domestice supplies.

If there are constraints, that is understandable, and these should be recognized.

Mr. President, I support the passage of S. 7, and I hope that my efforts, not only last year but this year, were directed toward bringing to passage in 1975 this important Surface Mining and Reclamation Act.

SENATOR RANDOLPH URGES APPROVAL OF AMENDMENT TO PROMOTE RECLAMATION OF ABANDONED AND UNRECLAIMED MINED LANDS

Mr. President, I have spoken in general support for the bill.

With the understanding that if there is any disagreement between the managers of the bill on any amendment that it would go over for further discussion, I send to the desk an amendment. In this instance, I would ask, with the understanding of my colleagues, that the amendment be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 36, after line 15, at the end of Section 405(a), insert the following new paragraph:

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

Mr. RANDOLPH. Mr. President, the Surface Mining Control and Reclamation Act of 1975 in section 405 establishes a program for the reclamation of abandoned mined lands or lands affected by surface coal mining operations. The Secretary of the Interior is authorized to reclaim such lands for commercial, industrial, residential, and other intensive land uses.

Prior to initiating reclamation programs on particular tracts of land, the Secretary is to make a thorough study of the area involved. In addition, the Secretary is to identify lands needing reclamation and establish priorities for proposed projects.

The program affects current Corps of Engineers activities. In addition, there is potential for significant involvement of the Corps of Engineers in efforts to reclaim lands that have been damaged by past coal mining activities.

Mr. President, the amendment which I offer would authorize the Secretary of the Interior to utilize the expertise and capabilities of the Corps of Engineers to implement reclamation projects authorized pursuant to the Surface Mining Control and Reclamation Act of 1975. The Secretary thus could take advantage of the Corps of Engineers experience and its understanding of the problems emanating from unreclaimed mining lands. The reclamation activities themselves are similar to the types of construction activities associated with current corps programs.

In response to section 233 of the 1970 Flood Control Act the Corps of Engineers has recently completed the national strip mine study. The study outlines the scope and magnitude of the effects of past and current surface and subsurface mining on navigable rivers and their tributaries. The study also indicates that 56 Federal water resource projects and about 13,000 miles of streams are adversely affected by past and current mining activities.

Some of these adverse effects will be remedied by reclamation activities required by existing law. However, more than 800,000 acres of disturbed lands that pose serious problems are unreclaimed and reclamation is not required by existing law.

The corps also has prepared a feasibility report on a reclamation demonstration project in the Cabin Creek watershed in West Virginia in response to a directive from the Appropriations Committees of the Congress. A third study undertaken by the corps dealt with the inspection of mining waste embankments in coal mining areas in the Potomac, Susquehanna, Delaware, and Ohio River basins.

As a result of the experience gained in these three studies the corps has developed expertise in evaluating the problems associated with unreclaimed mining lands, particularly with respect to both the adverse effects of these lands on the Nation's water resources and the remedial measures which may be employed to mitigate these effects. On the basis of this experience and understanding the Corps of Engineers is a logical agent for conducting reclamation projects, particularly demonstration projects, such as those authorized by S. 7.

The major benefit of this program will be the elimination or mitigation of the effects of unreclaimed mining lands on the Nation's water resources. While the condition of the land would be improved by reclamation measures, the benefits from elimination or mitigation of offsite adverse effects on water resources may very well exceed the increase in economic value of the site itself.

Mr. President, I think the language of the amendment is clear. The intent is valid. I trust that the amendment, which has been discussed with the managers of the bill, will be looked upon favorably.

Mr. METCALF. Mr. President, the Senator from West Virginia is probably the pioneer of all the Senators in the Senate today in insisting upon the development of our coal resources. As a Member of the House of Representatives during World War II he tried to get a development of coal for gasification plants, and so forth. He is the author of the joint study that was conducted by the Public Works Committee, the Interior and Insular Affairs Committee

and seven other Senate Committees on the whole energy problem.

I do not know anyone in America who speaks with more knowledge about energy, and about coal especially, than the Senator from West Virginia.

As chairman of the Public Works Committee it is completely appropriate that he should come in and tell us that the committee that he works for, and the public works people of America and the Corps of Engineers are available in all of their experience and all their technique, especially in developing the water, in helping the Secretary of Interior to carry out the purposes of the Surface Mining Act.

I think it is completely appropriate that we remember that in the course of carrying out the provisions of this act the Secretary of Interior should be able to call upon any of the other governmental agencies for their knowledge, for their assistance or for their help. But especially I think we should highlight the fact that the Corps of Engineers, with its knowledge of the water courses, its knowledge of the development of all the rivers and streams of America, should be permitted to use that knowledge along with the Secretary of Interior. I compliment the chairman of the Public Works Committee (Mr. RANDOLPH) for bringing in this amendment which says that the Secretary of Interior should be especially permitted to call on the Corps of Engineers to assist him in carrying out the very important provisions of this act.

So far as I am concerned, I think the amendment should be approved, and certainly I would accept it as an improvement to the bill.

Mr. RANDOLPH. Mr. President, I thank the Senator from Wyoming (Mr. METCALF) for his aroceous words and I commend the able Senator for his leadership in bringing this measure promptly to the Senate for consideration. As chairman of the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, Senator METCALF worked diligently during the 93d Congress to achieve enactment of legislation governing the reclamation of surfaced mined lands.

Due to his continued leadership in the 94th Congress the Senate is now able to consider legislation which is responsive to the concerns voiced by the President when he vetoed the measure last year.

Mr. HANSEN. Mr. President, I have no objection to the amendment.

I do point out again that Senator FANNIN is conducting hearings in his State of Arizona today on an export matter, as a member of the Committee on Finance. Reserving the right that he may have to ask that the amendment be brought up for reconsideration, I would be happy to accept it on that basis.

Mr. METCALF. Mr. President, I concur in that reservation. In moving forward with this bill, it might be well to accept some of these matters today, with the provision that Senator FANNIN—with the concurrence of all of us—will be able to have the action on these amendments reconsidered.

The PRESIDING OFFICER (Mr. GARN). Without objection, it is so ordered.

The amendment is agreed to.

Mr. McCLURE. Mr. President, I am one of those who, last year and again this year, supported the reporting of the bill and support the bill itself, with some reservations.

The bill does not have everything in it that should be there, and it has some provisions which I do not fully support. However, I think it is important that we enact a bill. I think it is past time that we enact a bill.

I was sorry that we ended up last year with a bill which the President found sufficiently unacceptable to exercise a veto. I hope that as we go through the bill today and tomorrow, we will be able to forge a bill which, after conference with the other body, can be sent to the President in form which he will find acceptable.

However, there are some matters in this bill which raise serious issues for our consideration. I raise those issues not because I am opposed to the bill but because I support it and because I want it passed. I want it passed in a form which is acceptable not only to Congress but also to the administration, because the people of the United States want and demand and expect that we will pass an appropriate measure that can become law.

I do not want us to engage in a futile exercise, trying to buy votes rather than solve problems. I hope we will solve problems with this bill and not simply posture for one group or several groups around this country, in an effort to placate them, but without any real progress toward solution of the problem.

The able Senator from Montana (Mr. METCALF) and the Senator from Wyoming (Mr. HANSEN) have already made reference to the bill and what it would do, and I will not repeat what the bill would do. But I do want to make some reference to the very real costs that we are imposing upon the consumers of this country as we seek to make the costs directly payable rather than to defer the indirect costs to future generations, in environmental damage.

That is a cost I am willing to pay. Let us not forget what we are doing, and let us not delude ourselves as we tell the American people that this bill is perfect and that it is without cost, because it is not perfect, and it is not without cost, just as the failure to pass the measure would be imperfect action on our part, and would impose a cost upon this generation and succeeding generations.

Let us take a look for a moment at what it will cost in terms of production. For small surface mines, I suspect that we will have, in permit cost, steep slope cost, impoundment cost, and reclamation fund fee that will affect about 40 million tons annually by 1976, a cost that ranges somewhere near $1 per ton.

On all surface mines, not just small ones, that cost will be reduced to slightly more than one-half, in a range of about 60 cents per ton, and by 1976 that will affect approximately 330 million tons per year. That cost of approximately 60 cents per ton on 330 million tons will be paid by the consumers of this country.

On all surface and underground mines combined, the cost again will drop, because the reclamation costs imposed upon underground mines is less than the cost imposed upon surface mines, and that cost will probably average somewhere in the neighborhood of 40 cents per ton on all coal that is mined, about 684 million tons per year, or nearly $300 million per year that will be paid by the consumers of this country, so that future generations will not pay the cost of unacceptable environmental degradation.

But there are some additional costs that are not included in those figures, and I think the American people are entitled to know that. We do not have written in those figures the additional capitalization requirements for all forms of mining and for the reclamation that will be required. We have absolutely no estimate of what may be required on one of the most controversial portions of this bill, and that is the alluvial valley floor protection. We are not even certain, as we get to the floor of the Senate, what an alluvial valley floor is, let alone what it will cost to protect it.

Aquifer restoration is another one of those costs that is totally beyond our ability to estimate at the present time. As a matter of fact, I think the able managers of this bill would have to admit that we do not know exactly what it is we are talking about in that particular area.

Citizen suits, valuable as they can be in enforcing the provisions of a law, have a cost; and those costs are almost impossible to quantify. There will be an additional cost, paid by the consumers of this country, because of the citizen suit provisions of this measure.

Under the terms of this bill, we will have designated certain lands as unsuitable for surface coal mining—properly so, I believe. Hopefully, the administration of the bill will make proper designation, but that is not without cost to the consumers of this country.

In addition, there will be exploration permit costs. There will be a cost for that, unless the amendment which I will offer later is adopted. I am not certain that it will be adopted. I understand that the Senator from Montana will oppose the amendment. It would remove the absolute ban on mining on Forest Service lands of the West. There will be an additional cost in doing that.

The surface owner consent for exploration and mining, which both able Senators have mentioned, will have very large costs. We do not know how much. I do not think anyone knows how much. But when we get through with all this list, I would not be at all surprised to find that we have added approximately $2 a ton to the cost of coal. That is a cost which perhaps we, in our judgment, are willing to impose. Most of those costs, I am willing to suggest, are proper costs, because they are proper activities. But what does that do to us at this time?

I think we must take another look at some of the other effects of this legisla-

tion, not because I am opposed to the measure, which I am not, but because I think the people of this country are entitled to be told what the facts are. I think they should demand, and we should give them, the courtesy of expecting that they are grown up, that they are able to accept the facts of life as presented to them, and that we can and should level with them on what we are doing here.

What will be the effect on our gross national product? There is probably a direct loss to the gross national product attributable to lost coal production, probably—and the estimate has been made by Treasury and OMB—in the range of $750 million. There will be a secondary economic impact because of the ripple effect of that lost gross national product, and that probably will total $1.350 billion.

There will be, as I indicated before, increased cost to the consumers. One of the places it will show up is higher utility bills. If we pass this bill, as I think we shall, we should also tell the American consuming public, "Brace yourself; you are going to pay for it monthly. It is going to be in your bills when you get your bill for electricity." That will probably be an average cost increase to consumers of electric power of about $1.3 billion. That total domestic economic impact, which must be paid by the consumers of this country because there is no one else to pay it, will be $3.4 billion. There is a cost to not doing it. But let us not try to kid anyone that when we do this, we have not imposed a very real increase in the cost of living on all of our citizens. I think we will.

There will, in addition, be an estimated payments deficit incurred by loss of coal in our balance of payments, because the only source of energy for which this coal would be the substitute is imported oil. That imported oil that will be imported because we did not mine this amount of coal will amount to about $2.750 billion.

I think when we add up all of the costs that are involved besides the direct cost to the industry, or including the direct cost to the industry, we will have about $6.2 billion in additional costs that will be paid by the consumers of this country.

Again I say that I do not make these comments because I am opposed to the bill. That is not at all true. I support the bill. But I want the American people to understand what we are doing and what they are expecting us to do as we move through this legislation.

Mr. President, I have a three-part amendment which I wish to submit en bloc. I send the amendment to the desk at this time.

The amendment which I have submitted modifies the language in section 525 (b), in section 525(c) and in section 426 (c). Those amendments are designed to expedite the judicial review of the secretarial order shutting down a coal operation.

Mr. President, I ask unanimous consent that those three amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, they will be considered en bloc.

Mr. McCLURE. Mr. President, I have discussed these amendments with the majority floor manager of the bill.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes amendments en bloc.

The amendments are as follows:

On page 129, line 2, after the period add the following new language:

Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to the provisions of subparagraphs (a) (2) or (3) of section 521 of this title, the Secretary shall issue the written decision within thirty days of the receipt of the application for review, unless temporary relief has been granted by the Secretary pursuant to subparagraph (c) of this section or by a United States district court pursuant to subparagraph (c) of section 526 of this title.

On page 129, line 9, after the period, add the following:

The Secretary shall issue an order or decision granting or denying such relief expeditiously: *Provided*, that where the applicant requests relief from an order for cessation of coal mining and reclamation operation issued pursuant to subparagraphs (a) (2) or (a) (3) of section 521 of this title, the order or decision on such a request shall be issued within five days of its receipt.

On page 129, line 13, before the semicolon, add the following: except where the applicant requests relief from an order for cessation of coal mining and reclamation operation issued pursuant to subparagraphs (a) (2) or (a) (3) of section 521 of this title.

On page 131, line 23, strike "except" and insert in lieu thereof "including".

On page 131, line 24, after the word "decision" add the following: "issued pursuant to subparagraph (c) of section 525 of this title"

On page 131, line 24, after the word "under" add the following: "subparagraphs (a) (2) or (a) (3) of"

On page 132, line 1, after the word "title" add the following: "for cessation of coal mining and reclamation operations"

Mr. McCLURE. Mr. President, this amendment—parts 1 to 3—is designed to modify the administrative and judicial review procedures where a mine operator has been ordered to shut down his operations under section 521 of the act. In light of the potentially severe economic consequences of a shutdown order, fundamental fairness requires that review by the Secretary be accomplished expeditiously and that some provision be made for prompt judicial review.

Part 1: Under section 525 mining operators who have been issued notices or orders to cease operations under section 521 are accorded an opportunity to seek review by the Secretary. No limits, however, are imposed on the amount of time the Secretary can take in making the required investigation and issuing a decision. Because of the hardship which a shutdown imposes on the mine operator, the Secretary should be required to issue a decision within 30 days of the receipt of an application for review. This requirement need not be imposed, however, where temporary relief from the order has been granted by either the Secretary or a court.

Part 2: Section 525(c), which gives mining operators the opportunity to request temporary relief pending the Secretary's review of a shutdown order also imposes no time limits on the Secretary. To avoid undue delay and to permit the operator to seek judicial review and judicial relief where appropriate as promptly as possible, a decision on a petition for temporary relief from a shutdown order should be issued within 5 days of its receipt. To facilitate prompt action by the Secretary, the hearing requirement has been eliminated in this one class of cases.

Part 3: This amendment provides for prompt judicial review of the Secretary's decision on a request for temporary relief pending his review of the shutdown order and for judicial relief where it is deemed appropriate.

I understand that they are acceptable to the floor manager.

Mr. METCALF. Yes, Mr. President, they are. I think they make a distinguished contribution to the consideration of the bill. None of us wants a delay to judicial review. None of us wants to countenance any shutdown of any of these ongoing coal operations as a result of failure to give the proper judicial decisions within an appropriate time. I think all of these amendments give time in the court to give complete consideration and, at the same time, urge that there be prompt and considered action on these operations. I compliment the Senator from Idaho for calling this to our attention.

I have no objection to the amendments. I think they contribute to the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. McCLURE. Mr. President, I understand that the Senator from Montana (Mr. MANSFIELD) has an amendment he would like to offer at this time. I yield to him for the purpose of his offering that amendment, with the understanding that I shall have the right to the floor after his amendment has been presented.

Mr. MANSFIELD. Mr. President, I appreciate the comments of the distinguished Senator from Idaho. I do have to meet with the leadership on both sides shortly.

The amendment I will offer will not be voted on today, because it is one with which we are all familiar. I wish to make a short statement for the RECORD.

AMENDMENT NO. 80

Mr. MANSFIELD. Mr. President, the bill, S. 7, Surface Mine Reclamation Act of 1975, now before the Senate, is a good bill, and will supplement some of the surface mine reclamation laws already adopted by several States. I am delighted that the Committee on Interior and Insular Affairs did not consent to some of the weakening amendments suggested by the Department of the Interior, and the coal industry. The State of Montana, I am proud to say, has adopted, perhaps, the most stringent set of laws in the country which pertain to the surface mining of coal, utilization of water, and environmental controls. The legislature is now actively discussing a severance tax as a means of providing funds to assist communities in adjusting to the

impact of significant surface coal mine developments. The Federal Government has a responsibility to support these efforts, and in no way obstruct the intention of these laws and regulations.

The two basic concerns I have with the bill, S. 7, are that it commits our Government to open-ended development of Federal coal deposits, and does not give sufficient protection to the surface owner who does not wish to sell or lease his property. It is for this reason that I again offer the so-called Mansfield amendment which states that where there are Federal coal deposits and the surface is owned by another party, the lands shall be withdrawn from all forms of surfacing mining. This amendment would apply only to coal deposits leased after January 1, 1975.

The energy crisis has focused on alternative sources of energy, and, unfortunately, in my estimation, most of the attention is being given to low-sulfur coal in the West. The low-sulfur coal deposits in the States of North Dakota, Wyoming, and Montana are easily surface mined with maximum profits. I am convinced that the coal industry is primarily interested is extracting coal in the easiest and most profitable manner with little regard for dislocation, environmental, and resource damage, local impact, and the aftermath. I see no reason that the Federal Government should associate itself with the effort to tie up all coal resources in the West to be used at a time convenient to the coal companies for their financial gain. There are tremendous deposits of coal—Federal, State, and private—that have already been leased and the surface has been acquired. In the West, some 12 million acres of coal have now been leased. Six million of this is Federal coal. Why should we be rushing to tie up the rest of the Federal coal? Admittedly, a moratorium on Federal coal leasing would create inconveniences for some of the larger strip mine operators, but this is inconsequential when considered with the detrimental effects that are associated with such large developments. Modern-day technology has overcome any significant inconvenience to industry.

Statistical information from the Old West Regional Commission indicates that, in Montana alone, there are 107,727 million tons of coal. Interestingly, over half of this, 65,165 million tons, could be mined by the underground method. Eight of the Western States have a total of 199,042 million tons of coal in place—almost one-half of the Nation's coal reserve.

Too little consideration is being given to alternative sources of energy. Why are we not pressing harder for accelerated research in wind, Sun, and geothermal sources of energy? What about methane? Why are we not making a more concerted effort to improve the underground mining process, and upgrading working conditions for the miners? Let us determine as rapidly as possible just exactly what we can or cannot expect from atomic energy. In the area of coal, I recognize that it is going to be utilized to a great degree, but why not in a more efficient manner through the MHD process? The administration has, for too long, held back on giving financial and administrative support to the MHD program, which is a more efficient use of coal with limited environmental problems, and requires little water, a very precious resource in the West.

Coal is going to be mined in the West, and Montana will do its share to help meet the energy crisis; but not at our own expense. Montana will provide for its own needs and for those of the immediate area. Coal will be, and is being, exported domestically for burning elsewhere, but I do not want to see eastern Montana opened up for a network of coal gasification plants, and the social, economic, and environmental impact that comes with projects of this nature. The coal gasification process involves the consumptive use of water, and this would place a very heavy drain on the Yellowstone, and Missouri River Basin Systems. My concerns in this area are supported by the large number of applications for water allocations that have been filed with the State of Montana.

Mr. President, the one consideration that must be paramount in making these energy decisions for the future is that eastern Montana, and the neighboring States are rural in nature and are dependent on an agricultural economy. We must be concerned with protection of agricultural productivity, personal property, and community health and safety. Coal gasification is not yet a very sophisticated process, and creates many problems, environmental pollution, tremendous local impact, displacement of local resources, a 20- to 30-year life, and an undetermined, but frightening, aftermath. I, personally, am not willing to stand by and endorse a program that will mean rural slums for eastern Montana. State licensed utilities have a responsibility to their own, but I am not confident that this extends to the out-of-State company or utility. We already see some examples of shack towns, and sprawling trailer communities with inadequate public services.

Coal development anywhere in the Nation needs to be strictly regulated, properly taxed, and utilized. The developers, it seems to me, have a commitment to make certain that no one part of the Nation has to absorb the total consequences of all-out development of coal. We do not want a policy of coal development because it is cheap, and plentiful, and at anyone's expense.

Each Member of the Senate should have on his desk a copy of the autumn 1974 issue of Western Wildlands, a natural resource journal published by the University of Montana. This is a comprehensive survey of coal development in Montana presenting the views of those for and against.

Mr. President, the Sunday, March 9, 1975, issue of the New York Times contains a news account of the recent press conference of Leonard Woodcock, president of the United Auto Workers Union. During the press conference, he discussed coal mining, and its apparent shift from the east to the west. Mr. Woodcock stated:

"The bulk of our coal lies east of the Mississippi River." He said, "We should be developing processes to remove the high sulphur content from that coal and be using it rather than out ripping up the West."

I ask unanimous consent that this news story be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOODCOCK SEEKS NEW ENERGY UNIT: LABOR LEADER SAYS IT SHOULD REGULATE OIL COMPANIES

MAHWAH, N.J., March 8.—Leonard Woodcock, president of the United Auto Workers Union, said today that the nation's economic condition and what he called the monopolistic practices of major oil companies were serious enough to warrant the setting up of a national energy development board with broad regulatory powers.

Mr. Woodcock said such a board should have the kind of bipartisan policy: development authority as that of the War Production Board in World War II.

The labor leader's comments came during a news conference before a speech he delivered to a meeting of several hundred students and union members this afternoon at Ramapo State College here.

While stressing that "we are not in favor of full nationalization" of the oil industry, Mr. Woodcock said any energy development board would have to have enough power to "take strong policy initiatives, or to break up monopolies if necessary."

He said that he had been discussing the formation of such a board during the last week with Congressional leaders in Washington and that "there has been some encouraging response from them on the project."

* * * ton, the California Democrat who is chairman of the House Democratic Caucus, joined Mr. Woodcock for today's conference on "Working People and the Economic Crisis." He said that he was familiar with the discussions on Mr. Woodcock's proposal, but that "I would have to find out more of the particulars before I could discuss its chances."

Mr. Woodcock said the economic and energy crisis is every bit as serious as the war crisis they faced during the nineteen-thirties, adding, "There's no way the auto industry is ever going to revive until the economy itself revives."

"The bulk of our coal lies east of the Mississippi River," he said. "We should be developing processes to remove the high sulphur content from that coal and be using it rather than out ripping up the West."

Mr. Woodcock said that because oil companies control not only oil but most other sources of energy, including coal and uranium, "an energy board would require the authority to take over those companies that stand in the way of new policies."

Mr. MANSFIELD. My amendment would limit the Federal Government's role in coal development and it would also give some hope to those ranchers, and surface owners, who are not interested in having their lands stripped at any price, and who wish to continue their current livelihood. These people are a part of a way of life which must be preserved and protected.

There is a growing awareness of what is happening in the West, and I am convinced that the people of the Great Plains and Rocky Mountains do not want to become the "utility backyards of the Nation." The adoption of my amendment will, in some degree, slow down but not impede the process, and it will give the little guy a chance.

Mr. President, I sent my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 169, beginning with line 17, strike out all through line 12 on page 170 and insert the following:

SURFACE OWNER PROTECTION

SEC. 717. All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine. Provisions of this subsection shall apply only to coal deposits leased after January 1, 1975.

Mr. MANSFIELD. Mr. President, I extend my thanks to the distinguished Senator from Idaho for permitting me to call up this amendment today, though it will not be acted upon.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the amendment will be laid aside until tomorrow.

Mr. METCALF. Mr. President, will the Senator from Idaho yield briefly to me?

Mr. McCLURE. I yield to the Senator from Montana without relinquishing my right to the floor.

Mr. METCALF. I thank the Senator. I ask for this time only to suggest that I am in wholehearted accord with the amendment offered by my colleague from Montana. I offered it in committee, and I supported it in conference, and I also offered it the last time this measure was debated.

Before we vote on it tomorrow, I shall have some further comments in support of the amendment, but at this time I defer any further comments until the Senator from Idaho has had a chance to speak on his amendment.

Mr. McCLURE. Mr. President, I was speaking a moment ago with regard to the potential impact of the passage of this legislation. I think it is well for us, in this day of the energy crisis, to ponder the effect this measure would have on the energy supplies of this country, and to recognize what we are doing. I might also parenthetically state that the figures I have given and the figures I am about to give are obviously without the impact of the Mansfield amendment. The Mansfield amendment would greatly increase the impact upon the energy availability of this country, and greatly reduce the availability of energy for the wheels of industry that provide the jobs with which we are all so very much concerned today.

That was the thing I wanted to address myself to for just a moment—the reduction that is imposed by this bill, as justifiable as it is, without the Mansfield amendment.

The potential reductions in output have been estimated, according to different sources and according to the different bills, during the transition period, as between 15 and 150 million tons a year reduction in production, and a low estimate would run around 33 million tons of coal per year, with a high range of 141 million tons of coal per year which could not be mined or would not be mined, but would be reduced from our inventory of energy assets in this country.

If I recall the figures correctly, you multiply that figure by 4 in order to get the number of barrels of oil we would have to introduce into our economy from overseas, from outside the United States, as a substitute for the coal which we would not mine under this bill.

If the high range is correct, that it might range as high as 141 million tons of coal that has to be replaced each year by oil, an additional 608 million barrels of oil per year, or 1.7 million barrels per day, would be needed.

But not all coal can be replaced by oil. It is estimated that 80 percent would be replaced by oil and 20 percent by underground mined coal; and you can talk all you want to about "Let us go to the deep mines in the East instead of the strip mines in the West," but that simply cannot be done as a practical matter, in the short run, no matter how much we may wish it. No matter how many speeches we may hear in the Senate, no matter how many learned articles are written concerning underground mining of coal, there is a limit to how fast we could exploit that resource, even if we should direct our policies in that direction.

But assuming that 20 percent would be replaced by underground mined coal, then the United States would need to import 486 million barrels a year, or 1.3 million barrels a day, which, at $11 a barrel, would add $5.4 billion a year to the U.S. foreign exchange outflow.

There have been a lot of people in Congress who have been fulminating about the oil exporting countries. There have been a great many people who have said they are friends of Israel, who have decried the amount of money that is building up in the coffers of the Arab countries, and yet many of those very same people are adopting policies which greatly strengthen the economic clout and political clout of the very countries that they decry as enemies of Israel. And again I would say that the figures in the conversation that I have been indulging in right now have to do with the impact of the bill as written and not the bill with the Mansfield amendment attached to it which would ban all strip mining on all Federal lands.

Now, if the coal output were reduced by 141 million tons of coal a year, the first year direct impact would be 26,100 jobs lost. For each direct job lost in mining it is estimated that eight-tenths of a job outside or 20,880 additional jobs would be lost indirectly, resulting in a first year total employment loss of 46,980 jobs. This is a first year impact if that were the amount of coal that were cut.

At this point Mr. HELMS assumed the chair.

Mr. McCLURE. Fortunately, I think that figure is on the outside range. The job loss will not be that great in the first year. But I think we do need to look at what we are doing so that the American people have an understanding of what price they are paying in direct cost compared to the indirect costs of damage to the environment that we are trying to correct. They need to know what we are doing.

In that connection, I think it is well to understand, because I have heard a great many people talk not only about replacing this with underground coal but also indicated we have so much coal under lease now that we do not need to lease any any more, that we do not need to make any future leases—and I am sure the Senator from Montana (Mr. MANSFIELD) would make the point that it does not affect future leases—and they point to the fact that there are 462 leases covering 681,180 acres, and they say there is plenty of coal there to last for some time.

But let us look at those contracts, those leases that are in effect, that would not be cut off by some of the proposed legislation, and we see these figures, there are under those 462 leases in those 681,000 acres of land, a total of 16.1 billion tons of coal. But what do those 16.1 billion tons consist of?

Well, about 550 million of it are uneconomic reserves. They are not going to be recovered because they cannot afford to recover them.

About one-eighth of the total, 2,010,000,000 tons are environmentally unacceptably located. They could not be mined for environmental reasons. Of the remainder of that 16.1 billion tons, 6.68 billion are already committed under existing contracts to known uses. They are not available for other uses than those to which they are already committed.

Of that 6.68 billion tons, 1.14 billion will never be mined because they are uneconomic to mine. So there will only be 5.73 billion tons mined of that 16 billion commited to present uses that will actually be mined and reach the marketplace and be used.

That leaves expected to be committed soon a total of 4 billion tons of the 16 billion that are expected, and that leaves out of the 16 billion somewhere between 1.72 to 1.73 billion tons out of the 16 billion that might be available to move into the marketplace to turn the wheels of industry and heat the homes and provide electricity for all of the homes in this country even at the costs which I have already outlined.

Now, perhaps it sounds to some like, having said what I have said, that I oppose the bill. I want to reemphasize that I do not oppose the bill. But I do oppose crippling amendments that will make the picture worse than it is.

There is no need to add to these economic woes that we are imposing upon an already crippled economy further crippling blows, and it is not necessary for us to go beyond the provisions of this bill. As a matter of fact, I think we need to make some slight revisions in the bill to moderate the impact upon the gross national product and the impact upon jobs of the people of this country.

AMENDMENT #2

I have an amendment, Mr. President, which will deal with one of those problems directly, because we have a provision in the bill which I believe is unwise, and it goes in the opposite direction from the amendment offered by the Senator

from Montana (Mr. MANSFIELD). I send it to the desk and ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, line 20, after the semicolon add the following: *Provided*, 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 applicable to other Federal lands as contained in section 523;

Mr. McCLURE. Mr. President, in a very short few words—I know this is a controversial amendment, and I will not ask the committee to accept it, but I will ask unanimous consent that it be held at the desk for consideration tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. This amendment which I have offered would seek to delete from the bill the provision that bans all surface mining on the national forest lands of the West. I know the good Senator from Montana, my very good friend, LEE METCALF, will say to me that that is only 4 percent of the coal.

Well, it is not really 4 percent of the coal; it is 30 percent of the economically recoverable coal on national forest lands, BLM-administered lands.

It may only be 4 percent of the lands, but it is 30 percent of the coal that is recoverable.

Mr. METCALF. Will the Senator from Idaho, who is going to give my speech, give another portion of it? Will he yield to me here?

Mr. McCLURE. I would be glad to yield to the Senator.

Mr. METCALF. At the present time there is not any mining whatsoever in the national forest, any strip mining or any underground, so it would not have any effect at all on any of the leases or any operations of mining that are going on today.

Mr. McCLURE. I appreciate the comment, but let me make one correction because I think the Senator said something he did not wish to say. He said there is not any mining. He meant there is not any surface coal mining.

Mr. METCALF. That is right, and the administration told us in the hearing that they have no application for leasing for mining on the national forest lands.

Mr. McCLURE. I appreciate the comments of the Senator from Montana, but we are removing 30 percent of the recoverable coal from the reserves of this country that lay on the national resources lands, and if, as a matter of fact, there are not any applications, then that might indicate they are in less economic areas. If they are in less economic areas, they will not be mined. We do not need the prohibition.

But what I suggest is we are taking 30 percent of the recoverable coal and setting it aside and saying we are not going to touch that coal.

Now, the Senator from Montana knows, as I do, that aside perhaps from blades of grass, the most common plant in the United States, the one plant that occurs in more proliferation than any other plant in the United States, is the common sagebrush, and that is what lies on top of these coal seams in the national forest, and we have not yet figured a way to turn sagebrush into board.

If they are national forests they are not in the character of forests that a great many people in the Eastern United States think of when they think of a national forest. These are arid lands. They are similar in character to the lands that the Senator from Montana (Mr. MANSFIELD) suggests should be removed from the inventory, that we should not mine at all.

There is no logical reason, there can be no logical distinction based upon the character of the land or the character of the coal, to treat that coal or those lands differently from those lands which are administered by the Bureau of Land Management.

As I say, I think this is not an uncontroversial amendment, and I know the feelings of the Senator from Montana (Mr. METCALF) and I know why he is doing what he is doing, and I applaud him for seeking to do what he thinks is in the best interests of the people who live in that area.

But what we are passing is a national bill not a regional bill. This is not a bill to impose conditions upon a specific section of the land. We are asking the people of the Northeast United States to accept whatever dangers there may be in offshore oil drilling.

They say, "Why do that to us?" And the people in Louisiana say "Why not do that to you, you are requiring us to have the offshore oil drilling and the onshore facilities for drilling in the Gulf and then you want the energy?"

And I suggest the similarity in this particular case lies in the fact that the Senator from Montana and my good friend the Senator from Wyoming are very much concerned, as they should be, with the impact that this industry may have upon their specific States.

But again, Mr. President, this is not a bill designed to affect adversely a specific State and just as we have already adopted in the committee the amendment which I offered that said the State of Pennsylvania is not going to get affected differently on experience, I say that we should not—to the States in the West that have these coal lands—treat them differently from the rest of the States, and impose upon those hills in the Appalachian region of the United States and in the midcontinent that have stripable reserves the full burden of the coal mining operations of this country.

Unfortunately, the mineral resources of this country were not necessarily placed where they are most convenient and they are not necessarily placed at the precise point that the consumers will consume them. We have to produce those resources from the place where they occurred naturally, because there is no other way we can do it.

In closing, Mr. President, I would urge when we get around to the consideration of the amendment which I have just offered, we remember that of the coals that are on the national forest lands that are not now under lease, they are under no current application for leasing, that at some time we are going to replace those tons of coal ton by ton with four barrels of imported oil.

So our consideration, as we look at the Mansfield amendment, or the amendment which I am offering, is not whether or not we wish to mine that coal, but whether we would rather mine that coal and rehabilitate that land, or whether we would rather replace that ton by ton with $44 worth of oil from some foreign country, with all the implications that has.

That, Mr. President, is the issue presented by these two amendments.

I yield the floor.

Mr. BARTLETT. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. BARTLETT. Yes, I yield without losing my right to the floor.

Mr. METCALF. Yes.

The agreement, of course, is that the amendment offered by the Senator from Idaho and the Mansfield amendment will both be called up again tomorrow and some challenges the Senator from Idaho made will be responded to by my colleague from Montana, and also as part of the discussion on the amendment tomorrow. With that understanding, I certainly defer to the Senator from Oklahoma who did not have an opportunity to make an opening speech and will combine his with any amendments he wants to offer.

Mr. BARTLETT. Mr. President, I want to make it perfectly clear that I do strongly believe in adequate reclamation programs and strip mining of domestic coal.

I agree with the concept that domestic coal should not be mined if the surface over that coal cannot be properly reclaimed. But I also believe, and I think it is very consistent with that concept, that the coal production of this Nation must be maximized.

There are adequate provisions in this bill to provide for proper reclamation of the surface, yet the bill does not stop there; it goes on much further and finally and very quickly develops into a coal banning bill.

I wish to express views of Senator FANNIN who could not be here today, as well as from time to time some views of my own.

Mr. President, the Congress in the last session and again in this current session has moved forward to preempt State laws governing reclamation of strip mined land. Why does the Congress feel

this need when 32 States already require reclamation of surface mined land and of these, 25 have updated or enacted new laws since 1970? Their laws are tailored to meet the peculiar and specific climatic, geologic, geographic and other conditions which vary from State to State. Is the land not really being reclaimed under State enforcement? Where is the evil? Are some, which do, failing to combat their problems? What necessitates a Federal law?

S. 7, under the guise of being a "reclamation" bill, which supposedly allows surface mining if the land can be reclaimed, is really a measure designed to preclude the mining of coal by surface mining methods in as many instances as possible. This "ban" philosophy is woven throughout the bill, from the purposes section to the surface owner consent provision.

There is a second philosophy which promotes underground mining as a substitute. Two short sections—one from the findings section and one from the purposes section—reveal this general thrust:

SEC. 101(b)—"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 expended and economically healthy underground coal mining industry."

Mr. President, this finds its place in the strip mining bill which seems to show a bias toward undergraund mining rather than strip mining.

SEC. 102(j)—"It is the purpose of this Act to encourage the full utilization of coal resources through the development and application of underground extraction technologies."

There are very serious implications inherent in a national policy that promotes underground mining while limiting surface mining. There are those that would have us believe that the United States can produce more than adequate coal supplies via underground methods which will meet the anticipated increase in demand. The facts are exactly to the contrary. Surface mining recovery technology makes it possible today to realize 98 percent recovery of the coal being mined while the bulk of underground mining—90 percent—uses the "room and pillar" technique that recovers only about 55 percent of the coal. Today, surface mining reclamation techniques can restore the land to equal or higher uses but techniques of underground mining are still in the infant stage as well as the technology to recover more of the coal.

Consider the facts expressed in the Bureau of Mines statistics.

Mr. President, I ask unanimous consent to have printed in the RECORD the charts on page 240 of the committee report.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

CHARTS

I. ESTIMATED COAL PRODUCTION BY METHODS OF MINING

[In billion tons]

	Underground	Surface	Total
1972	304,103	291,284	595,000
1975	335,700	349,010	685,000
1977	360,990	394,010	755,000
1980	396,530	498,470	895,000
1985	458,870	641,130	1,100,000

Source: Division of Fossil Fuels Minerals Supply, Bureau of Mines, May 22, 1974.

II. RECOVERABLE STRIPPABLE RESERVES

[In billion tons]

	Low sulfur	Medium sulfur	High sulfur	Total
Western	29.3	1.4	0.6	31.3
Interior	.6	1.2	6.7	8.5
Eastern	1.9	1.4	1.9	5.2
Total	31.8	4.0	9.2	45.0
Percent	70.6	9.0	70.4	100.0

Source: Bureau of Mines.

III. DEMONSTRATED COAL RESERVE BASE OF THE UNITED STATES

[In billion tons]

	Anthracite	Bituminous	Subbituminous	Lignite	Total
Mined:					
Underground:					
East	7.0	162	0	0	169.0
West	.5	31	98	0	129.0
Total	7.5	192	98	0	297.0
Surface:					
East	.5	33	0	1	34.5
West	.0	8	67	27	103.0
Total	.5	41	67	28	137.0
Grand total	7.0	233	165	28	[1] 434.0

[1] Totals may not add due to rounding.

Source: Bureau of Mines.

Mr. BARTLETT. Mr. President, chart I estimates the potential coal production levels by methods of mining. Because of the vast Western coal deposits that are easily and economically recoverable, there is great potential for expanded strip mining production. By 1985 this Nation can increase by 120 percent the coal mined in 1972 by surface mining methods, but it can only increase by 50 percent the amount mined from underground. Statistics also reveal that almost one-third of the demonstrated coal reserves, or 137 billion tons is in beds so close to the surface that underground mining is impractical, and three-fourths of this amount is located in States west of the Mississippi River.

Both political parties agree that coal production must be drastically increased to lessen the pressures caused by our dependence on foreign high-priced oil.

President Ford, in his message to Congress in January 1975, called for doubling coal production to 2.1 billion tons by 1985. The Senate majority leader and the Speaker of the House urged this past Saturday, March 1, 1975, in the congressional program for economic recovery and energy sufficiency, the Democrats' response to President Ford's energy package that coal production be increased to 1.4 billion tons by 1985, more than doubling the current production.

In reading that figure and citing the majority leader's position on increasing coal production, I am reminded of his introduction just a few minutes ago of the amendment bearing his name, which would reduce very drastically the potential production of coal in this country, as it would not permit coal to be mined from Federal lands where there is a dichotomy of ownership between the coal owned by the Federal Government and the surface owned by an individual. I do not see how, in view of the figures that I will be presenting, there would be any way in which there could be an increase to 1.4 billion tons by 1985. The figures that I will cite in just a few minutes do not include the provisions of the Mansfield amendment, but do include provisions in this bill which very severely hamper the production of domestic coal.

Even if this Nation could drastically increase underground mined coal, which it cannot, an additional factor must be considered—that factor is the human one. Consider the number of lives lost due to caveins, black lung, explosions and all the hazards incident to underground mining. The health and safety of our miners is vital and its measure of importance is incalculable.

S. 7 implements these twin philosophies by certain techniques. First, underground mining is encouraged by specifically failing to regulate it except when it causes surface effects; by pronouncements of preference in section 101, 102, and the surface owner consent section, 716, and also by taxing surface mined coal at a higher rate than coal produced by underground mining. Next, surface mining is banned in five broad areas set out in section 122, which include the national forests, the national wilderness system, within 300 feet of a public road, park, or building. Then, surface mining is mandatorily precluded in those areas where reclamation pursuant to this stringent act is not feasible. And to cap it all, surface mining may be precluded—by being designated unsuitable—if such mining will:

First, be incompatible with existing land use plans or programs; or

Second, 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

Third, 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

Fourth, 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.

These considerations have absolutely nothing to do with whether the land can be fully reclaimed. These are lands which will not be mined because another purpose has been given priority even if that purpose could be fully utilized after the coal is mined. It may be that all land could fall into at least one of these categories.

Perhaps the most illustrative example of this ban philosophy is seen in section 510, the permit approval or denial section. Before a mining application can be approved, the regulatory authority must find that:

First, the assessment of the cumulative impact of all anticipated mining in the area on the hydrologic balance has been made, and the operation has been designed to prevent to the maximum extent possible—using the best available technology—irreparable offsite impacts to the hydrologic balance.

Second, the area is not within an area designated unsuitable or is not within an area being considered for such designation.

Third, the surface mining operation, if located west of the one hundredth meridian west longitude, would not have a substantial adverse effect on farming or ranching operations being conducted on alluvial valley floors where they are significant to farming or ranching operations.

Stripping the legalese away, what this section means is that if the surface mining operation even temporarily alters the hydrologic balance as it is interpreted by the regulatory authority, then surface mining could be precluded. It means that such mining could be prohibited even if all the Federal and State water quality laws are fully observed. This is a de facto amendment to the Federal water quality laws by a committee which lacks the expertise to make the proper judgments. If the mining were to be attempted in an alluvial valley in the West, it will be precluded not because reclamation under this act cannot be achieved, but because farming or ranching operations are given preference over surface mining for coal. The paramount danger inherent in the alluvial valley issue is the extent, the scope, the dimension of the definition of "alluvial valley."

During the consideration of this section in markup, the Department of Interior representatives, who were present the entire time responded to the question of how much land will be included under the definition—and specifically where in the Powder River Basin of Wyoming and Montana would surface mining be precluded. The Department said it had no maps to pinpoint alluvial valleys, but that the definition in the act would preclude mining of millions of acres in the Power River Basin and other areas in the West. For the uninitiated, the Fort Union formation in and around the Powder River Basin contains the great bulk of our entire Nation's huge coal reserves.

Nearly half of this Nation's coal production last year came from strip mines, and in the short run, increased coal supplies can only come from western coal, most of which can only be recovered by stripping. Time and again it has been said that coal is our "ace in the hole" and is the only domestic fuel that can relieve the pressures—national and international—caused by dependence on exorbitantly priced foreign crude oil. We will need to double coal production by 1985 to maintain any form of self-sufficiency, yet in this Congress right now, this Senate Interior Committee has voted to reduce coal production by at least 48 to 141 million tons a year or 6 to 18 percent of our total production. How can we justify to the American consumer cutting production when their utility rates are climbing out of sight?

I am reminded of the article that was in yesterday's Washington Post, showing a particular electric billing for 10,410 kilowatt hours in the amount of $173.68 for 1974, and for 1975, this February, on a 2-month billing comparison of only 9,810 kilowatt hours, amounting to $261.67 in 1975, compared to $173.68 in 1974, with less electricity consumed.

The figures I used of 48 to 140 million tons a year in reduced coal production do not include any loss due to the surface owner consent provision of this bill, in which a surface owner may, if he desires, deny production from Federal lands even though he receives full value of damages because his land would be out of use for a year or so during the surface mining, and even though he has absolutely no ownership in the coal, which is owned by the Federal Government.

My figures of the reduction in production of coal domestically do not consider that amount of land that would be denied mining because of the lands unsuitable provision of this bill, nor do we include those lands because of the siltation provisions, nor the disturbed lands provision.

So it really appears that some people must think we have an adequate supply of domestic energy or perhaps even an excess to enjoy the requirements of this bill, which will reduce our ace in the hole, the coal production that so many of us are relying on to get us into the next century, when we hope to bring on new technology.

This, I realize, also goes along with nuclear energy.

We predict that the losses will be even greater as the ambiguous provisions of S. 7 which cannot now be quantified are resolved.

Mr. President, the Department of the Interior was asked to provide information on every provision in this bill as to what the cost would be in the production of coal, and they said that they could not do it. They have not provided us with this kind of information, which the general public should know, at least in round figures, so that they can form an intelligent opinion of the value of this piece of legislation.

Foreseen production losses alone should be sufficient to keep this act from becoming law, but consider some other side effects: 49,980 jobs will be lost, electric utility rates will climb 10 to 16 percent, 1.7 million barrels per day of imported oil costing $2.75 billion per year will be needed to replace lost coal production. The total economic costs to the U.S. economy will be in the range of $6.2 billion, not counting the human misery incident to the loss of jobs.

Mr. President, I point out that the imbalance of trade has become a tremendous economic problem during the last few years, occasioned by the huge increase of imports of foreign oil and refined products. The total amount of this, including natural gas, for 1972 was $4.7 billion, and then about double to 1973, in the amount of $8 billion; and for 1974, it is estimated at $23 billion.

The additional amount of imported oil that would be required to replace the loss of coal production would amount to $7 billion and would increase this very drastically and increase our reliance on unreliable imported oil.

Mr. President, the issues involved cannot be viewed in a vacuum. We must consider the every day realities of inflation, dependence upon foreign energy sources, jobs, American security, and plain old economics. The majority of this committee expressly defeated an amendment I offered to clarify the section on stream siltation—section 515(b)(10)—which requires the administering authority to "minimize the disturbances to the prevailing hydrologic balance by conducting surface coal mining operations so as to prevent additional contributions of suspended solids to the streamflow." This language prohibits any increase in stream siltation and thus would preclude mining near water courses. My amendment, to add "to the maximum extent practicable," after the word "prevent," was rejected because the language was said to introduce an economic test to measure the extent of what could be done to stop siltation, and that economics are not appropriate to environmental protection. This majority analysis is a vacuum that leads to the ridiculous; we in Congress can pass laws requiring something to be done, though we know it be impossible. Reclamation of our strip mined lands is a socially desirable goal, but the level of that reclamation has to be tied to economics unless our real intent is really to preclude surface mining of coal. The total disregard of the economic ramifications of the standards imposed in S. 7 convinces us that the act is truly intended to ban strip mining. Other committee action strengthened this conviction.

As a policy matter, the committee banned open pit mining for coal except for one mine already in existence—the Kemmerer in Wyoming. This extremely

environmental decision cost the consumer—at least in 1973 production terms—4 mines in Carbon County, Wyo., at 6.5 million tons; 1 mine in Lewis County, Wash., at 3.2 million tons, and 1 mine in Alaska at 700,000 tons. As a practical matter, the de facto prohibition on new open pit operations will prevent the recovery of considerable amounts of coal in Colorado, Utah, Washington, and Wyoming because the only feasible method for mining some huge, thick, pitching seams in the West is by the prohibited open pit.

Coal will be tougher to mine in the West—if it can be done at all—because the committee refused to grant variance authority from the requirement to restore to approximate original contour as set forth in section 515(b)(3) or 515(d). The issue was whether, given all the environmental safeguards elaborated in section 515(c)(3), which includes 16 specific environmental tests before a variance can be granted, the regulatory authority should be given flexibility in granting variances for industrial, commercial, residential, or public facilities to meet postmining uses for the affected land.

The committee voted to allow this variance for Eastern U.S. strip mining operations, but not Western. This decision defies logic unless the intent is to preclude strip mining is as many instances as possible. Consider this example: If the postmining use of the Western land is a planned residential community surrounding a manmade lake, the land must nevertheless be returned to approximate original contour, even if the builder must again after that original contour to accommodate his project. Economics again are viewed in a vacuum.

S. 425, vetoed by the President in December 1974, contained a prohibition against further leasing of Federal coal until February 1, 1976. As most know, the Secretary of the Interior, faced with environmental pressure, has not leased any Federal coal in the West for over 3 years. Environmentalists claim that because there is 16.1 billion tons already under lease, there is no need to break the current moratorium. Put Bureau of Land Management figures bring relevance to the 16.1 billion tons by showing that all but 4 billion tons are already committed under long term contracts, are in environmentally unacceptable mining areas, or are in less than logical mining units. That in fact, of the remaining 4.01 billion tons, half is expected to be committed to contract soon, and that, thus, only approximately 2 billion tons of reserves are available to meet the huge expansion dictated by our growing energy needs. What logic is there to locking up, even for 1 day, coal reserves that belong to all the people of this Nation, when they must now be programed by lease if future energy demands are to be met? Unless, indeed, the intent is actually to preclude surface mining of coal?

The committee rejected a House provision which exempted anthracite coal mines from the environmental reclamation standards of section 515 and the surface effects of underground mining of section 516. The rejected provision would have left coal mines predominately located in Pennsylvania under that State's environmental protection provisions. We believe all the States should be treated equally, just as all surface mining operations should be so treated, and so we felt that all States should control reclamation standards. Although the committee did not adopt this approach, we support the elimination of an exemption which would give relief to only one State and one small segment of the surface mining industry.

In conclusion, we agree with President Ford's veto of this bill in December 1974. The committee has not made enough changes to warrant his signature and we urge him to veto this measure again is significant changes are not made in conference. From experience, in the previous conference we see little likelihood of success. We agree with the President and with the Democratic leadership of the Congress who all call for accelerated coal production between now and 1985. We find this bill to be the very antithesis of the policy to increase coal supplies because it is, in essence, a ban on strip mining of coal.

We find the encouragement of underground mining at the expense of surface mining dangerous, as well as incapable of meeting the demands for additional coal. We believe our Nation cannot afford this bill. It will hamstring our efforts to wean ourselves from imported crude oil, cost the consumer in higher utility rates, cost the Nation blackouts and brownouts because additional coal-fired power plants will not be built, and put thousands of Americans out of work. The issue of striking a balance between reclaiming our lands and still mining the essential energy source will be moot, if this act becomes law, because the bulk of strippable coal reserves will not be mined. Every available fact points toward stripped coal as the only opportunity this Nation has to become energy self-sufficient.

There are huge low sulfur western coal reserves that in many instances can only be extracted by surface mining. Such a system is the safest for our miners, it is the only efficient method that can capture 98 percent of the resource. Coal is the only domestic fuel which we have in abundance, and only through apt regulation of surface mining on a State by State basis can we insure full and total reclamation of our precious land. Finally, 32 States have exemplary reclamation laws and much of this Federal scheme was borrowed from States like Pennsylvania and Montana. So why create this Procrustean bed?

The impediments which this committee has adopted in the form of S. 7 are not in the best interests of this Nation, and we only hope that if the President's veto of it cannot be sustained, the Congress will awaken and repeal it before it cripples us as an industrial nation.

I am reminded, in thinking about the treatment that strip mining received in this legislation, of the price controls on natural gas, the environmentally attractive fuel, which have prevented it from being produced in such amounts as would enable us to make real progress in reducing the pollution of this Nation. I am reminded that the former head of the National Environmental Protection Agency said that if the amount of natural gas in New York State could be increased 300 percent, the pollution problems would be greatly minimized. Yet here we are concerning ourselves with strip mining when 70 percent of the mineable coal is low-sulfur in content and very attractive from a pollution and environmental point of view. Yet we are making it very difficult to obtain adequate amounts of energy.

I am reminded, too, of an article that was published in the Washington Post earlier this year telling about Georgetown University shifting from gas to oil heat, because of the unavailability of sufficient natural gas and curtailments that were necessary by the gas company.

The additional charge to Georgetown University for, I believe, approximately 105 days, was $2,000 per day. This will be repeated time and time again, because of inadequacies of natural gas or inadequacies of domestic crude oil to provide the necessary fuel or energy to heat or to cool, or to make wheels turn. Instead, we will have to turn more and more to high cost imported oil.

The Committee on Interior and Insular Affairs has jurisdiction over certain of the environmental bills as well as certain bills pertaining to energy. It is the committee which sponsored the National Environmental Protection Agency.

Section 102 of this legislation has resulted in many delays of powerplant construction, of construction of the Alaskan pipeline, of leasing of Federal lands for coal production purposes, and of licensing of nuclear powerplants. So, in what that committee has done and has not done, although we have made progress in the environmeintal field, we have fallen way behind in our efforts to be energy sufficient, in our efforts to achieve energy independence.

I remind my colleagues that those nations of the world which suffer from poverty are invariably those nations of the world which have a very low supply of energy; and nations which have achieved a high standard of living are those which have acquired and developed energy of their own, or have imported it from other nations in order to have utilization of energy.

It is with a proper and careful utilization of energy that we have the opportunity for having a high standard of living. After we go into the very difficult period of developing sufficient energy for this Nation, realizing that we must replace these costly imports with domestic energy, and realizing that we must reduce those imports, we must bear in mind that it will be impossible for us to reduce the imports without decreasing employment and without affecting our ability as a nation to be productive.

I emphasize to my colleagues that the people whom we will be hurting the most, in an energy short position, are those of the most modest means, those who are poor, because what we have been doing in recent years is having more and more

people of lower incomes enjoy the higher standard of living that goes with the usage of more energy; and we will be precluding the poorer segments of our population from having adequate energy if we pass this legislation.

So I ask my colleagues to consider very carefully what this legislation would do, and I implore them to make some changes in various amendments which will truly make it be a bill that will assure us of adequate reclamation to go along with our mining operations, so that we can mine coal, but that we will not mine coal if the land cannot be reclaimed. I think that we must not adopt this piece of legislation, which actually is a ban on coal production.

Mr. President, I yield the floor.

Mr. METCALF. I thank the Senator from Oklahoma.

suaded the former Federal Energy Office to remove the exemption from price controls which initially had been accorded to State and local governments. In issuing its regulations revoking the exemption, the Office stated;

The FEO believes that the . . . revenues obtaintable through the sale of crude oil at uncontrolled prices would represent, in effect, windfall revenues for those State and local governments having crude oil interests at the expense of the adverse impact on the overall objectives of the Emergency Petroleum Allocation Act.

Section 107(c) of S. 622 would restore that exemption with its accompanying windfall at least to the extent of 20,000 barrels per day per State.

Mr. President, I ask that my amendment, which would simply strike the section from the bill, be printed and that the text of the amendment appear at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 85

Strike all from page 65, line 15, down through page 67, line 2. On page 67, line 3, strike "(d)" and insert in lieu thereof "(c)".

NURSE TRAINING AND HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1975—S. 66

AMENDMENT NO. 86

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT (for himself Mr. HELMS, and Mr. BUCKLEY) submitted an amendment intended to be proposed by them jointly to the bill (S. 66) to amend title VIII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and services.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975—S. 7

AMENDMENT NO. 87

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON submitted an amendment intended to be proposed by him to the bill (S. 7) 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.

AMENDMENT NO. 88

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself and Mr. BARTLETT) submitted an amendment intended to be proposed by them jointly to the bill (S. 7) supra.

AMENDMENTS NOS. 89 AND 90

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (S. 7), supra.

AMENDMENT NO. 91

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. BEALL, Mr. BROOKE, and Mr. WEICKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 7), supra.

STEEP SLOPE STRIP MINING PROHIBITION

Mr. MATHIAS. Mr. President, I am submitting an amendment to S. 7, the Surface Mining Control and Reclamation Act of 1975, which will phase out surface mining on steep slopes. These are defined in my amendment as slopes over 20 degrees. It provides a 30-month phasein program to minimize any problems associated with the eventual prohibition on steep slope operations.

In seeking to amend this most comprehensive piece of legislation, I do not intend to imply dissatisfaction with the overall product. I am proud to be a cosponsor of S. 7. I extend my congratulations to the members of the Interior and Insular Affairs Committee and the committee's chairman, Senator JACKSON. This has been not only a difficult technical undertaking, but also difficult from the legislative point of view. I am very pleased that the end is in sight politically, and even more pleased that the end-product is a workable, but tough regulatory framework for the strip mine industry.

S. 425 very nearly became law in the 93d Congress. When it was considered by the Senate, I offered an amendment which would have accomplished much the same purpose as my amendment today. Since that time, much has happened. We have survived an oil embargo and we are well on our way to enacting comprehensive energy legislation to govern not next year, but the next 20 years. Project Independence has been blueprinted by the Federal Energy Administration, and that report reemphasizes the important part that coal will play in meeting this Nation's energy needs.

Something else has happened as well. Mr. President, we have become much more sophisticated as a people in recognizing the tradeoffs which are inherent as our energy needs interface with the environment which we all exist in. We have had to meet and resolve so many difficult questions in this particular area over the last year and as a result public awareness is greater now than it has ever been. One thing we have very definitely learned, is that you cannot separate energy development from environmental quality. In short, you cannot say, let us have all the energy development that this Nation can ever need and leave those areas of the Nation unsuitable for energy development as environmental areas. The relationship between our supplies of clean air, pure water, soil, and minerals are simply too complex for such a view.

I am very proud that the people of Maryland are now in the process of responding to the need to guard our environmental resources in the context of energy development. This year there are bills in both the Maryland Senate and House to phase out strip mining of slopes over 20 degrees. They are supported by the Governor and the Maryland Department of Natural Resources. This is an example of a State with a long history of both deep mining and strip mining, taking a hard look at what is occurring with respect to its soil and its water and concluding that stripping activities on steep slopes are unacceptable. Let me read you the recommendations of our State Department of Natural Resources as they testified on Maryland House bill 452:

The Department of Natural Resources strongly urges adoption of this bill. As of 1973, there were approximately 27 million tons of coal in Maryland that were strippable; an amount equivalent to one-tenth of the annual national strip mining total. Consequently, Maryland does not have an abundance of strippable coal, and a concerted effort should be made to make the most effective use of it.

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 operation, disturbed areas would be restricted to an absolute minimum. These measures are near-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. Since very limited mining now occurs on slopes of greater than 20 degrees horizontal, the Department believes that House Bill 452 will result in minimal economic repercussions, while at the same time making substantial improvements in the protection of our resources.

Additionally, this bill would direct strip mining into areas of more gradual slopes, having the effect of preserving coal reserves on steeper grades. It may therefore result in less costly methods of reclamation, concentrating strip mining into areas of easier access and possibly the initiation of more deep mining in the State of Maryland.

Frankly, in proposing a phaseout on the steep slope, I am guided by two concerns. First, we must care for the deep-mining industry. Our Nation relies on the vitality of that industry and will long after strip mining has exhausted that which is strippable. Second, when we talk of coal on the steep slopes, beyond the angle of repose, we refer to a very small part of our resources. So we are not dealing so much with the facet of the energy crisis, but rather with a question of land use. Lost production from a phaseout of steep-slope mining can be made up by a minimal increase of production in the deep mines.

It is proper at this point to detail what my amendment would prevent so that Senators can properly consider the benefits and costs. From an environmental standpoint, mountain strip mining is by far the most damaging form of strip mining. Mountain strip mining brings with it severe problems of sedimentation, land slides, water pollution, acid drainage, and disruption of soil and subsurface waters. All of these problems pose very serious threats to the homes and lives of

people living in the densely populated mountain valleys below where strip mining has occurred.

Every bit of evidence reinforces the concept that certain strip mining practices cannot be regulated satisfactorily, and in these instances, the best answer is to prohibit those specific activities. Consider for a moment the 1973 Senate study, "Factors Affecting the Use of Coal in Present and Future Energy Markets," which clearly points to the serious continuing problem of landslides on steep slopes and repeated violations of State regulations.

For all types of mountain strip mining, more than one-third of inspections revealed major violations including: exceeding bench width, operating off the permit area, dumping excessive material over the outflow, and lack of drainage control.

The results of that Senate study are reinforced by a second study, "Design of Surface Mining Systems in Eastern Kentucky," which was the work of Mathematica, Inc., for the Appalachian Regional Commission.

Discussing problems of sedimentation, landslides, or water pollution only tells part of the story. We also have to look closely to see how this very serious, long-lasting, environmental damage will impact upon the economies of the various States. There is no question that mountain strip mining has a decidedly detrimental effect on timber production, tourism, and industrial development. The Appalachian region is one of the world's finest hardwood timber areas. This is a commodity in extremely short supply. Strip mining, even after reclamation, leaves the land in a state unsuitable for timber growth. This is not the case with deep mining.

Let me draw an example from my own State of Maryland. Quite clearly, the highest and 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. As I mentioned earlier, this is a fact recognized by the Maryland Department of Natural Resources as they seek to amend State law in a fashion similar to my amendment to S. 7.

The points that I have just made relate as much to national land use as to energy policy, if indeed those two concepts can be separated. I would like to now discuss more specifically what our energy policy should be as we particularly focus on coal. The demise of the deep mining industry is proceeding at an ever-increasing pace. Since 1966, over 2,400 deep mines have shut down. Production has fallen by more than 84 million tons in Appalachia alone. At the same time, strip mining operations have increased by well over 700 and production by 59 million tons. That is a loss of 19,000 jobs in the mines. But everyone in this Chamber knows, or should know, that strip mined coal is a finite resource. We only have 45 billion tons left.

As we shoot for coal production of over a billion tons a year, and 2 to 3 billion in the years ahead, as we get into coal gasification and liquefaction, it is easy to see that, by the end of this century, all strippable coal may be exhausted. In the Department of the Interior study entitled "Energy Research Program," it is predicted that western strippable coal will all be gone by 1996 and most of the eastern strippable coal will be exhausted as well. But while we have 45 billion tons of strippable coal, we have 30 times that much deep minable coal. Even taking the most conservative statistics supplied by the U.S. Bureau of Mines, we find 356 billion tons of deep minable coal as against the 45 billion tons I mentioned earlier. Now that is an extremely conservative analysis of the amount of underground coal this Nation possesses.

But even using those most conservative figures, we see a ratio of 8 to 1.

Given these kind of statistics, what would be a rational coal policy? Would you encourage stripping wherever you can physically get the coal out? Would you encourage strip mining on steep slopes where you know that the final result will include environmental degradation and a possible threat to the safety of the people who live in the valleys below? Would you, in essence, encourage strip mining to grow in leaps and bounds, and thereby guarantee the mass exodus of deep miners from the mines and the closing of those deep mines? Would you do all this when you know by looking at statistics—the very ones I have quoted; the most conservative statistics available—that massive strip mining is a short-term operation and eventually the deep mines must be opened and expanded and the deep mine labor force rebuilt and expanded? In the final analysis, when you look at all the figures, you have to recognize the need to guarantee the continued existence of deep mining in Appalachia. 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 headlong to strip mining of 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 activities on the surface will make deep coal seams technically impossible to mine.

I have briefly alluded to the exodus of deep miners to other types of employment, but this bears some further analysis. I am convinced that unless we halt this steady exodus of skilled labor, that other Senators will meet in this Chamber years hence to discuss ways of retraining a massive labor force to meet this Nation's then urgent requirement for coal. That retraining will be a very expensive undertaking, but if we act today to insure a continuing stimulus to deep mining operations, the expense will be avoided.

In the final analysis, I would hope that one lesson would be learned as a result of the current energy shortage. We must plan for the future in our handling of energy. To some the future is tomorrow, to others, it is measured in years, but with regard to energy, the public interest requires that it be measured in decades. We must start with this bill to establish a policy for coal which will respect the land, the air, and the water—the elements which sustain us—a policy which will safeguard the deep mine coal industry so that when the strip mines are exhausted, there will be a viable industry to serve this country.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN), Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I ask unanimous consent that the following staff members be allowed the privileges of the floor during debate and votes on S. 7, the pending legislation—Harrison Loesch, Fred Craft, Margaret Lane, Mary Adele Shute, Tom Berry, and Clay Vaughan.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT THERE BE NO ROLLCALL VOTES BEFORE 2:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes today prior to the hour of 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE MINING BANS

Mr. FANNIN. Mr. President, on numerous occasions I have called to the attention of the Senate the disastrous ramifications which would occur if the Senate enacted this surface mining bill in its present form. Time and again we have reaffirmed our belief that surface mining should not go forward if reclamation of the land cannot be achieved. Our objections to this bill revolve around the issue that many provisions in the bill ban surface mining even though the land could be fully reclaimed. That coal which will not be mined will certainly put this Nation at a disadvantage in its struggle to become energy self-sufficient. We see no reason to deny ourselves—at this critical economic period—the only energy resource which we in this Nation have complete control over and have in abundance. In other words, Mr. President, these bans have absolutely nothing to do with whether the land can be fully reclaimed, and other land uses are being given priority over the mining of this vital resource.

These bans which I refer to are the ban in alluvial valleys, the national forests, the national wilderness system, on fragile or historic lands, on important historic lands, on cultural lands, and on lands designated as important for scientific or aesthetic purposes.

Mr. President, for these reasons we need to move to strike this ban on alluvial valleys from the permit approval or denial section. Senator HANSEN has an amendment which he will call up at a later time to accomplish this goal.

Congress, in its omniscient wisdom can pass a law which everyone knows is absolutely impossible to comply with because the degree of the technology is just not as advanced as the Congress. Imagine Congress, just 100 years ago in 1875, passing a law requiring the abolition of the use of horses and demanding as replacement the creation of the automobile as a substitute within a 10-year period. Imagine Congress doing generally the same type of irresponsible action when

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 7, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 7) to provide for the cooperation between the Secretary of the Interior and the State with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

it requires our automobile industry to adopt, within a 5-year time frame, technology which will clean up all of the air pollution caused by the automobile.

We all know that the Clean Air Act was passed by Congress. We know that the congressional standards imposed upon the automobile industry were set without the benefit of public hearings, unfortunately. We know that the philosophy behind this congressional action was to hold the feet of the industry to the fire to force them to come up with technology which could answer this air pollution dilemma. We knew the technology was not currently available, but we imposed this costly, impossible time frame within which they had to respond. Now we are suffering the consequences.

Recall that in 1972 and 1973 when the automobile industry came to the Environmental Protection Agency and said they could not meet the standards imposed by Congress and asked for a 1-year extension. The EPA responded that the industry was not acting in good faith and suggested that they adopt on an industrywide basis the use of the catalytic converter. We, in Congress, are more aware than most that our antitrust laws prevent the companies within the industry from consulting and trading technology on this problem. So, we saw GM spend $700 million; Ford, $300 million; Chrysler $100 million; and AMC $50 million, for a grand total of $1,150 million, just for independent research and development on this converter.

This congressional folly has caused more than mild irritation and discomfort. First, in fact, this decision to use the converter required the petroleum industry to alter existing refineries and build new refineries to produce lead-free gasoline; second, created a new industry which would build those converters and they spent millions of dollars tooling up for that manufacturing; third, those manufacturers had to make long-term contracts for platinum and platuim which are the catalytic agents used in the converter and those materials had to be imported, which added to our disastrous balance-of-payments situation; and fourth, the EPA regulations cost the retail gasoline stations a huge amount in costs for new storage tanks and special nozzles so that lead-free gasoline could be pumped and sold to the users of these catalytic automobiles.

Mr. President, in 1975, the Environmental Protection Agency has admitted that in its zeal to keep the feet of the industry to the fire, it may have goofed in forcing the catalytic converter down the throats of the American people. It also revealed that the converter cleans up some pollutants but creates dangerous sulfuric oxides or sulfuric acid at the same time. EPA is in a dilemma and now has asked Congress to set new standards that can be met by the automobile industry without the use of the catalytic converter.

Government bungling and the congressional setting of impossible standards have cost the American consumer billions of dollars for research and development on this converter and cost the automobile purchaser $210 for each of the converters, plus it will cost the consumer loss of mileage efficiency because of the removal of these converters. Finally it will cost the consumer to develop new technology which can respond to this problem.

Mr. President, are we going to repeat this folly by demanding impossible standards in this surface mining bill which defy technology? When we require zero siltation from the mining process, are we not exceeding the standards of the Clean Water Act? Certainly even the layman can understand that mining disturbs the earth and that such disturbances cause some increase in siltation to the surrounding water. To retain this zero siltation margin will simply mean no mining.

Mr. President, let us talk about what is happening and its effect on what we are trying to do in solving the energy crisis of this country. What the utilities do and what is done by industry generally, hinges on the mining industry expansion. Our balance of payments, which is becoming so critical, and our assurance of an energy supply in this country in case our supplies of imported fuels are cut back or eliminated, are very important factors. Mr. President, in the National Academy of Engineering, there is an article entitled "U.S. Energy Prospects." I wish to refer to their reflection on what is happening concerning coal. They say that vastly increased quantities of coal and uranium fuel will be required if the United States is to meet its 1985 goal. According to the National Academy of Engineering task force:

> Coal production will have to more than double in the next 11 years, while uranium mining production must be increased six times.

Mr. President, we are talking about coal.

According to this report, the task force estimates normal production would be increased by 660 million tons per year by 1985, from 600 million tons per year in 1973 to 1.26 billion tons per year in 1985.

Stated another way, the coal industry will have to bring into production one deep mine and one surface mine each month for the next 10 years. All these must average 2 million tons production per year or more. To put this into perspective, Mr. President, only 13 mines of 2 million tons per year capacity were opened in the decade between 1960 and 1969. In 1971, only 25 mines with annual production capacity greater than 2 million tons per year were in operation, and only three of those exceeded 5 million tons per year.

The article goes on to explain that the expansion will be costly. The NAE estimate is about $21 billion in terms of the 1974 dollar. To accomplish this will require a stable, favorable market outlook ranging some 30 to 40 years in the future.

It is also probable that coal prices will have to rise from $40 to $60 a ton to permit recovery of those costs. It will also require a massive expansion of transportation facilities, by 400 million tons per year capacity.

I call this to the attention of my colleagues to illustrate the tremendous problem we are facing in this Nation if we are to meet the requirements that I have stated. And what other alternatives do we have, Mr. President? I do not know of any other. We are working on many different programs, but I simply cannot assure my colleagues that we have made sufficient progress, or that we have the technology to go forward with many of the programs for which we have great hopes.

Mr. President, at this time I would like to comment about the President's program for energy.

It is unfortunate that the reactions to President Ford's economic and energy program have been more emotional than rational. There has been surprisingly little done in the way of analysis in the media either in support of the administration program or against it. Most commentary has been aimed at emotion rather than intellect.

Recently my attention was called to articles which were written by Donald F. Anthrop, chairman of the Department of Environmental Studies at San Jose State University in California. These articles contain some very interesting figures and an extremely thoughtful analysis of the President's energy program.

Mr. President, I ask unanimous consent that these two articles, which were published in the San Jose News, be printed in the RECORD for the benefit of my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows.

[From the San Jose (Calif.) News, Feb. 6, 1975]

PUBLIC MISSES POINT ON ENERGY

(By Donald F. Anthrop)

President Ford's energy program seeks to reduce energy consumption and oil imports primarily through economic measures.

The essential features of the President's program are (1) a $3 per barrel import fee on imported crude oil and petroleum products; (2) price decontrol on domestic crude oil, most of which is presently controlled at $5.25 per barrel; (3) decontrol of wellhead natural gas prices; (4) an excise tax of $2 per barrel on domestic crude oil and $0.37 per thousand cubic feet on natural gas; (4) a windfall profits tax to be levied on domestic oil producers to recapture for the federal government the profits arising out of oil price decontrol; (6) relaxed environmental controls, accelerated offshore oil leasing, and other measures intended to increase domestic energy supplies

Surprisingly, perhaps, the principal opposition to the President's program has been focused on those measures designed to reduce imports and foster conservation, a fact which suggests that Americans do not really understand either the gravity or complexity of the nation's long-range energy problems.

As a result of the Arab oil embargo during the first three months of 1974 and higher oil prices, total domestic demand for petroleum in 1974 was 6.1 billion barrels, about 3.1 percent below the 1973 level. However, domestic crude production, which peaked in 1970, continued to decline, falling 4.2 per cent below 1973 production. As a result, the U.S. imported 2.1 billion barrels of petroleum last year (35 percent of its supply) at a cost of nearly $24 billion. If U.S. petroleum consumption should return to its historic growth rate of 4.3 percent annually and if domestic

crude production continues to decline at the rate it has since 1970, by 1980 the U.S. could be dependent upon foreign sources for nearly 60 percent of its supply at an annual cost of $45 billion at current world oil prices—a sum which is approximately half the existing value of all U.S. foreign investments. Of course we don't know what oil prices will be in 1980, but unless the OPEC cartel is broken we must assume they will rise.

To counter this perilous trend the Ford Administration wants to reduce imports by one million barrels per day by the end of 1975 and 2 million barrels per day by the end of 1977. This is a modest proposal, and even if successful, will leave us dependent upon foreign sources for 30 percent of our oil by the end of this year. However, there are no quick and easy answers.

Our nation's future energy supplies are further jeopardized by an impending natural gas shortage of very serious proportions. In 1974, marketed production of natural gas was 1.5 percent below the 1973 level—the first absolute decline in gas production since World War II. In a staff report issued last month, the Federal Power Commission (FPC) states that conventional U.S. gas production reached its peak in 1973, and, because annual production far exceeds new gas discoveries, will decline for the indefinite future.

The problem is largely economic and stems from the FPC's regulation of natural gas prices. In a 1954 opinion, the U.S. Supreme Court ruled that under the Natural Gas Act of 1938, the well-head price of gas was subject to regulation. In implementing that decision, the FPC has regulated well-head prices largely in the interest of consumers and has succeeded in holding gas prices below those for other fuels. Comparison of fuel costs to electrical utilities shows that in September, 1974, the utilities paid an average of $0.52 per million BTU for natural gas compared to $0.79 for coal and $1.95 for low sulfur fuel oil. Since natural gas contains almost no sulfur, electrical utilities faced with air pollution regulations limiting sulfur dioxide emissions have found combustion of gas to be a much cheaper solution than using low-sulfur fuel oil or investing in the capital equipment needed to burn coal.

I have sketched in the foregoing the recent history of our consumption of oil and natural gas, and tried to indicate the seriousness of our present situation in regard to these commodities. In a second article I shall examine President Ford's proposed remedial program and the alternative of mandatory rationing.

[From the San Jose (Calif.) News, Feb. 13, 1975]

PRESIDENT'S OIL STRATEGY SOUND

(By Donald F. Anthrop)

Last week in this space I attempted to sketch the history of our present energy dilemma and show the serious consequences that would follow if recent trends in energy supply and demand are allowed to persist.

To counter these perilous trends President Ford has proposed an energy program which includes taxation and other economic measures intended to reduce oil imports by one million barrels per day by the end of 1975 and 2 million barrels per day by the end of 1977.

Ever since the President proposed his energy program, Senators Jackson and Kennedy along with the Democratic leadership in the House have been telling us the President's program will be inequitable, inflationary, and ineffective. The Democrats appear determined to reject the Administration's program in favor of one of their own. While they are apparently unable to agree on the basic principles on which an energy policy should be based or even upon the objectives to be achieved, they seem to believe that some form of mandatory gasoline rationing is the only viable option for achieving these objectives. Before we accept this conclusion, a more careful analysis of the problem would seem to be in order.

As I indicated in this column last week, one of our basic problems is consumption of oil—particularly foreign oil—not just gasoline. Since motor gasoline accounted for 39 per cent of our total petroleum consumption in both 1973 and 1974, any program which limits gasoline usage only, whether it be rationing or a special tax on gasoline at the pump, attacks only thirty-nine per cent of the problem. Although some rationing advocates would have us believe the remaining 61 per cent consists largely of home heating oil, middle distillates, which include heating oils used in homes and commercial establishments, comprise about 18 per cent of our total oil consumption.

If imports are reduced by one million barrels per day and if domestic crude production continues to decline this year, our total oil consumption would have to be reduced by 7.2 per cent, which is a reasonable and achievable goal. If, however, these reductions were applied entirely to the gasoline component, gasoline consumption would have to be reduced 18 per cent. Since part of this gasoline is used in the production of food and other purposes not amenable to rationing, gasoline usage in passenger cars would have to be reduced at least 24 per cent. Achievement of this reduction would mean that on the average each passenger car could be driven no more than 130 miles per week. Although the bleeding heart liberals in Congress seem to assume that only rich suburbanites commute to work, it just happens that the poor commute too—often long distances—because they are more restricted in housing. Furthermore, an immediate reduction in gasoline usage of this magnitude would cause a major economic upheaval and unemployment in those industries and communities dependent upon tourism.

In my view, many of the President's proposals for energy resource development and relaxed environmental controls, particularly on air quality and strip mining, are unnecessary, undesirable, and detrimental to the quality of life. Nevertheless, his basic strategy on energy is based on two fundamental principles of a sound energy policy: (1) that the energy consumer rather than the general public pay the cost of making that energy available, and (2) that consumer demand should be shifted away from energy-intensive products and processes. I have no reason to believe Congress can do as well, and in my judgment, the most serious flaw in any rationing scheme is that it fails to accomplish either of these fundamental goals.

Finaly, I should point out that the taxation and energy policies espoused by the liberal Democrats in Congress are not even in accord with their professed desire to keep energy prices low. (And I think I made clear that I believe low-cost energy to be an undesirable goal in this country.) In the long run, low-cost energy can only be achieved by increasing energy supplies. In order to make the enormous capital investment that would be required for exploration and production facilities, the oil and gas industries must improve their earnings. This will not be accomplished by maintaining price controls on domestic gas and crude oil or imposing additional taxes on the industry. Despite the rhetoric, Congress can't have it both ways.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I realize there are not too many Senators present in the Chamber at the moment, but my guess is that unless the Senate as a body, with most of its Members participating, takes a good, close look at what has been said by the Senator from Arizona and heeds some of the red flags he is displaying, we are going to be returning in a year or two to undo what I would predict we are now very likely to do.

The Senator has called attention to the bad mistake we made on the catalytic converter. As Senators know, it is very hard to be against a clean environment. No one is. We are all for it. Yet sometimes in our enthusiasm, which has proved at times to be misguided, we have made some very bad mistakes, and the catalytic converter is one of those mistakes. It is one of the things that have added significantly to the cost of automobiles in this country, and as a consequence I think has contributed at least somewhat to the depressed state of the automobile industry. That is reflected in unemployment and in the draw upon unemployment compensation benefits, and in the loss of purchasing power.

The fact is that when we passed the environmental protection laws, the Clean Air Act and most of those bills, I, with most Senators, voted for them. I did the same when we had the OSHA bill before this body, the Occupation Safety and Health Act. Who can be against preventing injuries to people, and possible deaths? Certainly not the Senator from Wyoming. If I had taken time to read the fine print in that bill, I am not so certain that I would have voted for it, though I think there were only three Senators who voted against it.

It is very easy, because we are concerned about our environment, because we do appreciate beautiful landscapes, because we do deplore acid mine discharges in the streams of America, to want to do something about it. I spoke about subsidence that occurs in my State of Wyoming, a problem that has been familiar to residents of the States in Appalachia for many more years than we have experienced it in Rock Springs.

These are all problems we want to do something about. But we have a more serious problem in this country, a critical problem, that has been addressed by the President, by Congress, by all politicians, and by a lot of experts as well. And what have we been saying?

We have been saying we want to make it tough. We want to make sure that industry shapes up. That is one of the things we have been saying. So we have been going from the rather general rule to the specifics that, I think unfortunately, have been incorporated into S. 7, now before us. We have entered areas that I think could better be left and indeed should be left to the 50 States for adoption or for consideration and possible rejection.

The State of Montana, represented so ably by our distinguished colleague now managing this bill on the floor (Mr. METCALF), has passed some tough laws. They are specifically tailored to address problems in the State of Montana. In Wyoming the same thing has occurred. I believe Congress would be well advised, I repeat would be well advised, to leave some of these specific decisions and special rulemaking and lawmaking up to

the States, instead of trying to incorporate it all in this bill. But we have not done that.

It is popular these days to be against many things—to be against bigness, and we are against that. It is popular to be against windfall profits, and we are against that. All you have to do to be against little people is to say that little people could get windfall profits if we do not assure that that shall not happen.

So we have done several things, Mr. President. First, we have given the rancher or the farmer the surface ownership of lands in the West, where the full estate is separated, where there is ownership of the surface only, as distinguished from the minerals underneath. That has occurred because of the homestead laws. The grazing homestead laws passed when, some several decades ago, the Government decided that it was going to keep these minerals, including the coal under the land, for the future needs of all of the people of the United States. So when the lands went to patent, only the title to the surface passed to the homesteader. We are addressing that issue, and we have in this bill now before us, as was done last year in conference, given the surface owner the right to agree that strip mining can take place on the land the surface of which he owns, or to deny an energy company that right. Then we have taken the next step, which I think is a very grievous error, and one that I do not doubt a bit, despite the very persuasive presentation made by the distinguished Senator from Arizona to point out what is wrong with it, we are still going to enact. I have no doubt of that at all.

We have said that this rancher can give consent or this farmer can withhold consent. But if he wants to give consent to the strip mining operation all he can receive is the appraised value of those acres actually to be disturbed by the mining operation or the use thereof incident to that mining operation and the appraised value of the improvements on the surface that will be likewise affected by the mining operations. We have given him the right to receive compensation for diminution in income which results as a consequence of the interruption of his agricultural operation by virtue of the mining operation.

Now, in order to display our generosity a step further in conference last year, that is to say that in addition to these three considerations that can be legally contemplated by the rancher or the farmer, on the one hand, and industry, on the other, we have said if that is not enough, in the opinion of the Secretary of Interior, he may pay up to $100 an acre for those acres actually involved again or the amount of the losses in paragraphs (1) through (4) in section 716, whichever is the lesser.

We are going to find out, as we do so often around here, the hard way, that that is not a very good deal. I do not know anything about coal mining, but I do know a little bit about ranching because I have been in the business—despite the fact I have not made a success of it—for more years than some Members of this body are old, and I know enough about it to know this: The typical rancher is not going to buy that kind of a deal. He is not going to get enough out of this bill, having so narrowly restricted what he can receive, that there is any inducement for him to say to X coal company, "I will give you consent to strip mine the coal under my lands."

So we are going to be coming back—I make this prediction—after we pass this bill, and I have no doubt but what we are going to pass it, and ask ourselves the question, why is it these ranchers did not give consent to the operation?

Well now, at the present time if you are going to try to make that argument you are going to be confronted with statistics. They are always persuasive. It is easy for somebody to get up and say, "You do not have to worry about that because look how much coal is under lease." It is under lease, but we have done something else in this bill. We have said before the mining operation actually can begin the coal company must receive from the surface owner permission to engage in that strip mining operation. One of the criteria for approval of a mining permit is that the coal operator has got to put together a reclamation plan. He has got to show how he is going to reclaim the lands.

Now, something else that is unique about the West is that there is a checkerboard pattern of ownership. It is not unlike an actual checkerboard with the red and black squares. Maybe within a certain block of ground, where the coal mining operation is going to take place there are 20 ranchers or farmers, and 19 of them say they are willing to have the land strip mined, but the 20th one says he is not willing.

Well, statistically that is unimportant. If everyone owned the same amount of land as every other person, only 5 percent of the coal under that situation would be denied the people of the United States. But—and this is a very big "but"—because one has to have a reclamation plan that will provide the specifics by which it is all going to be put back together, it simply means that if one man, with a few of these checkers on the checkerboard says, "You cannot strip my land," then the whole thing falls apart because it is not a full reclamation package.

It is not uncommon at all in the West to find land irrigated, where there is water available. Picture, if you will, the anomalous situation where you have two or three toadstools sticking up representing the lands owned by a rancher who says, "Do not mine my land." Contemplate, if you will, how he could raise water onto his land after the surrounding area has been lowered by maybe 25, 50, 75 feet, or the amount by whatever amount of coal may have been removed. That is the situation, and that is the situation that we are going to be faced with because this bill is so restrictive that there is little, if any, inducement for a rancher to give his consent to a surface mining operation. Because an operator cannot put together a reclamation plan for a block of land, no mining will occur.

Despite the fact that there is a lot of coal already leased in the United States, this bill requires the issuance of a mining permit which must be preceded or accompanied by a reclamation plan showing how the energy developer is going to put it all back together. So I say, Mr. President, that that is one of the faults in this bill.

Now, we have attacked it from another point of view, too. We have said to the energy company, "There is no way you can circumvent the thrust of this law." If it can be proven that the energy company has decided that maybe it could get the consent of the farmer if the energy company was to go two States away and buy Uncle Joe's little farm or a building or something and pay him a good price for that, if that person two or three States removed is important enough to the rancher or to the farmer, that sort of deal, too, has been contemplated. We have put teeth into this bill so that any energy company which thinks it can get around the prohibition against paying more than those simple criteria that I first spelled out, has not read the bill because there is no way that that can be done.

So I predict what will happen is there will not be very much coal leased.

The administration, Members of Congress, the Democratic majority in Congress, put together a policy statement and they recognized, as I said yesterday, that coal has to make a significant contribution. They predicted, I think, by 1985, if everything goes as they envisage, we will be getting enough coal from our deposits in the United States to replace the quivalent amount of 15 million barrels of oil per day.

It sounds great. We have the coal. The Senator from Washington (Mr. JACKSON) said we have enough coal to last us 500 years. At the rate we are going in this bill I predict we will have enough to last us 1,500 years because we are not going to be using very much of it. It is just that simple.

I think what the Senator from Arizona says is right. I spoke earlier about these environmental standards.

I read a very interesting paper over the weekend by a Dr. McKetta, who was quite an environmentalist. The title of his paper was, "Eight Facts That People Should Know Something About." We have been concerned about the buildup of carbon monoxide, and rightly we should be. It can cause asphyxiation if one is subjected to enough of it.

I was surprised to learn, in reading this paper by Dr. McKetta, who is on the faculty of a very prestigious university in the State of Texas, that if a heavy smoker who does not smoke for several hours and who goes out into the most heavily contaminated area in any city in the United States, insofar as carbon monoxide buildup is concerned—if he is away, if he stops smoking for a few hours, and goes out there and breathes those exhaust fumes that just entirely surround him, and if one checks the CO in his blood level it has not gone up, it has gone down. It has gone down because there is less carbon monoxide coming from the emission of all these automobiles in Los Angeles, New York, Washington, or any place else than there is in the smoking of his cigarettes.

Now, I suppose that might surprise some people. We have been concerned about thermo pollution in water and we have gone to great lengths in some of the environmental bills we have passed to say that we cannot raise the temperature of a river because this rise, it is going to bring about all kinds of disastrous results. We have so saddled industry with the requirements of that law that the President of ConEd, Mr. Luce, who used to be with the Bonneville Power Administration, told me, if I remember correctly, that 17 percent of their costs in the City of New York are a direct result of the environmental protection laws we have passed.

Well, we have said that by a certain time, one cannot raise the temperature of a stream scarcely at all, or maybe not at all.

Do we know what raises the temperature of water more than any other single factor in America? Probably with all of our erudition we might make the wrong guess, but if one asks any first or second grader what raises the temperature of water, he would give one the right answer. It is the Sun. It raises the temperature of Lake Erie from about, I think, 34° up to about 75° in the summertime.

They have also found that where concentrations of phosphates occur, fish life abounds.

It has also been found that the phosphates that were used in detergents so successfully, and which we banned, now are not that bad.

The putrification that occurs and is of such concern in Lake Erie does not come about from the phosphates we get in the source and the rivers from the detergents. It comes about from the sewerage itself.

I am trying to make the point, Mr. President, that sometimes in our haste, in our enthusiasm, and in our desire to get out in front to pass something to show people how concerned we are about America, we make some bad blunders, and we have made plenty of them. I just hope we might stop long enough and take enough time to look at this bill so as not to repeat those blunders because we are in a critical situation.

I could go on talking about other things. We have found out, for instance, in South America that the biggest buildup of nitrates occurs from the continuing incidence of thunderstorms over the Andes and the nitrogen oxides that are collected in rain water combine with solids in the soil to build up the great saltpeter deposits in South America.

This has nothing at all to do with man. In fact, the whole thrust of Dr. McKetta's article led me to believe that despite the arrogance that we ascribe to ourselves, thinking we are really changing the face of the Earth, the fact is that we do not really have very much to do about it, period. Most of the things that happen are totally unrelated.

Dr. Pecora, the late great head of the USGS and Under Secretary of the Interior, said that three single volcanic eruptions—just three—have brought about a total of more pollution in the air surrounding this planet Earth than all of the things that man has done since he first started walking upright. Just three volcanoes did that.

It was not but 100 years ago that we had a very widespread and continuing fire in the forests of the West, and for 2 or 3 years, or maybe more, I have heard oldtimers, all of whom now are dead, tell me when I was a young boy that they could remember that the Sun for 2 or 3 years was reddened almost all of the time by consequence of the smoke that was in the air. That was not man made. There may have been a few manmade fires, but essentially this was a forest fire caused by lightning strikes.

My point is that most of the things we do or do not do really do not make very much difference. Yet we have made some bad blunders because we ascribe undue importance, undue significance to incomplete facts. We have gone forward here and legislated, as I am certain we are going to do this time, thinking that we are going to please everybody—we are going to please environmentalists, we are going to please ranchers—and that is all right. The one thing we do not talk too much about these days is what is going to happen to power rates.

I happen to come from the West, and I want a first-class reclamation job done. I was one of the persons that insisted that we keep the reclamation fee per ton of coal at 35 cents a ton. It was dropped down from 35 cents to 25 cents for underground coal despite the fact that most of the money we put in early is going into underground mining to fill mine voids.

The fund will do several things. First, it will stop subsidence so people's houses are not going to break underneath them—the houses actually cave and fall down and subside into the ground. The fund will fill voids to prevent the breakage of sewer lines, water lines, and gas mains, all of which can cause threats to health. Natural gas seeps into basements, as oftentimes it has done. One hears about an explosion. Someone's house blows up. We do not know what caused it. They find there was a ruptured gas main and that the gas followed that broken line and got into someone's basement and a spark ignited it. It goes up in the air. That is one of the things that happens.

Another thing, very serious as far as underground mining goes, is that, whenever there is a void left underground, fire sooner or later breaks out. Fires occurred in mines long before man had anything to do about it.

Much of that took place before man mined, but we have been speeding up the process now. We have taken coal out of these underground mines, leaving more, or oftentimes more than we remove and it catches fire. That is another hazard, too, because, if that occurs, the carbon monoxide from that incomplete combustion which takes place, can seep into people's homes and cause death.

I think that we want to do a first-class reclamation job, and I think the people who turn the light switches on ought to pay for it. I do not know what else will and I am not willing to say we will cut that fee back and take it out of the general treasury. We have been taking out of the general treasury until the general treasury is upwards of $500 billion in the hole already.

People are complaining against inflation, saying we ought to raise social security and welfare to do more for everybody and to make food stamps more readily available.

Yet, when we fail to balance the budget, we exacerbate the very thing that makes it necessary to consider taking these other actions I am talking about.

So I am not happy about that. I think we want a first-class reclamation job, and people are going to have to pay the bill.

It is a bunch of hogwash to think that X, Y, or Z coal company is going to pay the bill. The people who will turn the light switches on are going to pay the bill. I think they should. I think that is fair. I want to make sure that the land, after the coal has been removed in the West, is made usable. It can be made usable. I have seen what is going on out there in the way of reclamation, and it is good. There are those who say it is not going to work, but I think those statements come mostly from people who do not know what they are talking about.

The reclamation I have seen taking place right now inclines me to believe that we can remove the coal just as Germany has been doing for a long time; we can put the earth back together, and it can be even more productive—and I repeat that, Mr. President—it can be even more productive than it is now for one very good reason: Sometimes the topsoil is not the most fertile layer of earth encountered. One of the mines south of Gillette found that just above the first layer of coal for about 12 to 18 inches was a higher concentration of plant nutrients than there was anyplace else. So they said, "Let's try that out." They put that on top of the ground when it had been put back in place. They found that that was more fertile and more productive than the topsoil would have been.

We found in Wyoming the topsoil is not always the best. They have found in Germany it is not always the best. They have tested the horizons. They have gone down and removed the overburden in Germany and have found out that sometimes you can improve upon nature.

I think another thing that should be mentioned is that it does not always make sense to try to put it back the way nature gave it to us.

Sometimes, as they found in parts of Appalachia, kids would like to play football and they happen to live in little towns where, by virtue of the topography of the country, there is not a piece of real estate flat enough on which to play football. We saw pictures in the Committee on Interior and Insular Affairs last year of such a place. That was where they had never had a football field.

Instead of telling that mining company, "Put it all back together as you found it," they said, "Leave this piece flattened out and we will have a school and a playground here."

They put in some housing developments and a supermarket was constructed. I think that makes sense. So I say let us leave some of these options to our own judgments. I think it underscores the point that if you want to have as much local input as possible, leave as much of the decisionmaking process as possible in the hands of the States which, in turn, can get some input from local communities. You are apt to come up with a better answer than you may otherwise have had.

The Senator from Arizona knows what he is talking about. He comes from a State which, while it has not only coal but has other minerals as well, is aware that the pattern that this particular piece of legislation takes may, indeed, have some impact on other pieces of legislation that we are likely to be considering at a later date. The Senator from Arizona knows what he is talking about, and it would be well for the Congress of the United States to heed what he has been saying. I regret that there have not been more people in the Chamber. I know when they come in to vote what we say will not be considered by very many people. If I were a betting man, which I am not, I would bet that this bill will not be changed very much. But I will make one other little offer. If anybody tells me we are not going to be coming back here in a year or two with some significant changes and amendments to propose, I would like to call that one.

I can just about guarantee it will be found that despite the total amount of acreage leased, when this surface owner consent provision is applied, it will be found the surface owner has little if any inducement to give his permission to the mining of his land. By virtue of the checkerboard pattern it will not take more than one man to hold up mining the whole checkerboard. Reclamation has to encompass an entire block of land.

Yesterday I talked about the alluvial valley floor. The Senator from Arizona mentioned that. We do not want to disturb any streams or underground water. But I was talking to some of the USGS officials yesterday and they told me this: An action that is taken may disturb the waterflow one place, but if this stream dries up, another one is going to pop up someplace else. Nature has a way, as we all know, of balancing things out. So it is not always going to mean that devastation and chaos will result if there is some interruption.

I do not want any interruption. This bill guarantees that if there is an interruption or a dislocation of the surface stream or the underground water involved, the energy company responsible for that action will be fully liable.

Later on this afternoon I intend to display some of the real problems that come about from a definition of terms.

The U.S. Geological Survey has some words of art. We have wrestled with what is meant by alluvial valley floors, or some of the changes that have been offered on that.

I hope that Members will take the time to walk by the easels. There will be a staff person available to answer questions. I am not trying to say we have very many of the answers, but I would hope that we may raise some questions that I think ought now to be considered.

In this Federal legislation we are getting into some pretty technical areas that we do not know enough about, and we are dealing with them in a fashion which inclines me to believe that when we get to applying the specifics of this law, the courts may not take the same approach that the Congress now takes.

We would hope that everything can be done reasonably, that we would be not unreasonable in our judgments. Yet I believe the courts are going to look at the language, they will read the legislative history, and they are going to have to try to make a determination on the basis of what the law says, as modified, possibly, through its legislative history. So it does not follow that what we hope may come about necessarily will result.

Let me express my appreciation again to the Senator from Arizona for his very incisive and, I hope, persuasive observations. I think he has done a great service. I hope before this bill is passed that Senators who are not here now will have had an opportunity to read what the Senator has said and to recognize that the person who utters those words knows what he is talking about. I thank my colleague.

Mr. METCALF. Mr. President, we have heard much about the likely "inflationary impact" of this bill and the "inordinate costs" it will impose on the industry and on the consumer. We have heard such a wide range of numbers bandied about that any one set becomes meaningless taken out of the context of the assumptions on which it was based. I therefore feel it is imperative to put this issue in perspective for once and for all. There are several catgories of costs which I would like to discuss.

First, there are the very real and present costs of damages now being caused by surface coal mining operations: costs for cleaning up streams polluted by siltation and acid mine damage; damage caused by improper blasting practices; damage to homes and crops from landslides; and damage and loss of income to surface and water right owners during the life of the mining operation. These are but a few of the costs that S. 7 is designed to eliminate. An idea of their magnitude can be found from looking at the estimated cost of rectifying these damages on abandoned lands, which is $7 to $10 billion.

Balanced against these we have the following potential costs: to the industry, to the consumer, to the Federal Government, and possible losses in production.

With regard to increased operator costs, numerous studies and testimony received by the Interior Committees of both Houses, indicate that the actual increased costs of production would range from 0 to $2 per ton, depending on the operator's present practices. However, this increase will be phased in over a period of almost 3 years. Furthermore, the price of coal has increased in the past year more rapidly than the price of oil. Coal once selling for $2 to $8 per ton is now going as high as $60 a ton on the spot market, and utilities once paying $2 to $3 per ton under long term contract are now being forced to renegotiate for coal at $15 to $20 per ton. Yet demand still outstrips supply. The profits of most coal companies have soared—some increasing by as much as 400 percent over last year. In such a context of profitability, it is difficult to decry even a maximum cost increase of $2 per ton to assure top quality mining and reclamation practices.

Even when the 35 cents or 25 cents per ton reclamation fee is added to this, the impact on overall production costs must still be considered relatively minor, particularly when such costs will all be ultimately passed on to the consumer.

With regard to the consumer, a $2.35 per ton increase in the price of coal—assuming the worst case—would increase his electric bill less than 20 cents a month, a small price to pay for a vastly improved environment. This is considerably less even than the anticipated impact on consumer electric bills under President Ford's $3 per barrel tariff on imported oil.

Next, we must consider the cost to the Government of administering this bill.

Staff calculations show maximum additional Federal expenditures for S. 7 as follows, in millions of dollars:

Fiscal year 1975	$46.2
Fiscal year 1976	62
Fiscal year 1977	69
Fiscal year 1978	71
Fiscal year 1979	73
Fiscal year 1980	75
Fiscal year 1981	77
Each year thereafter	80

And finally, we must discuss the costs associated with possible losses in production. Although the administration has gloomily prognosticated production losses ranging from 14 to 41 million tons of coal a year, they have been unable to justify these figures or to specify to the Interior Committee the source of the assumption for any figure in this exceedingly broad range. Dire predictions of huge production losses, one can only assume, are predicated on two basic assumption: first, that S. 7 will drastically cut coal production because of reclamation costs, and second, that there are provisions in the bill that will effectively lockup vast coal reserves. The first argument is obviously falascious. As I have already stated, the price of coal is such that the cost of the bill can be easily borne by the industry. And furthermore, as many of my colleagues have pointed out, most of the requirements of S. 7 are already included in many State mining laws, an dso should not be an undue additional burden to responsible operators.

The second argument is equally weak in that it assumes, despite our vast coal resources, if surface coal mining is statutorily banned on even 10 percent of all coal bearing land—a generous estimate—there will be no relocation of mining operations either to other areas, or no shifts in mining technology. This argument also assumes that the Congress, should it find these provisions to have been injudicious, could not and would not alter them. Yet this pledge has

been made time and again during the course of debate on this bill and the predecessor, S. 425. It was made in conference; it was made in a letter to the President by the chairman of the Interior Committee, and it has been made on the floor of this very Chamber as recently as yesterday.

And finally, it makes the grievous error of equating reserves with production.

Although it may be that there are considerable reserves of coal in the areas under discussion, there is very little actual production going on at present on these lands, or contemplated for the next year or so. So we are not by these provisions significantly altering the status quo, and have plenty of time to rectify any errors in judgment, these provisions may prove to represent.

But we cannot put off this measure to wait and see—we must act on this bill now, and I strongly urge my colleagues to leave these provisions in the bill.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. STEVENSON. I have a question regarding section 522, which provides for the designation of areas unsuitable for surface coal mining.

Does this section preclude all types of coal mining from areas found unsuitable for surface coal mining?

Mr. METCALF. The designation of areas unsuitable for surface coal mining will not necessarily result in a prohibition of mining. The designation can merely limit specific types of mining and thus the coal resource may still be extracted by a mining technology which would protect the values upon which the designation is premised. In addition, after an area is designated, coal development is not totally precluded as exploration for coal may continue. Moreover, any interested person may petition for termination of a designation.

Mr. STEVENSON. Will this section have any effect upon existing surface coal mining operations?

Mr. METCALF. The designation process is not intended to be used as a process to close existing mine operations, although the area in which such operations are located may be designated with respect to future mines.

Mr. STEVENSON. What does the committee consider is an "existing mine"?

Mr. METCALF. The committee recognizes that an existing mine might not be one actually producing coal, because it was in a substantial stage of development prior to coal production. Thus, the meaning of existing operations is extended to include operations for which there are "substantial legal and financial commitments."

Mr. STEVENSON. What was the committee's understanding of the term "substantial legal and financial commitments?"

Mr. METCALF. The phrase "substantial legal and financial commitments" in the designation section and other provisions of the act is intended to apply to situations where, on the basis of a long-term coal contract, investments have been made in powerplants, railroads, coal handling and storage facilities, and other capital intensive activities. The committee does not intend that mere ownership or acquisition costs of the coal itself or the right to mine it should in and of itself constitute "substantial legal and financial commitments."

Mr. FANNIN. Mr. President, I commend the distinguished Senator from Wyoming for his very forthright position on this legislation and on the problems that we have with this proposal. He and the distinguished manager of the bill come from two States that perhaps will furnish more coal to this great country of ours than any other States in our Nation.

They are very much aware and insistent that their States be protected, that if the laws of their States are stricter than the Federal laws in respect to the reclamation of their land, that the States' rights be upheld. I commend them for that position. They have been very insistent that first consideration be given to the States which have these great deposits of coal.

We are very fortunate to have in this great Nation a vast quantity of coal.

I also realize that we have many other wonders in the States of Montana and Wyoming. Senators representing those States have the desire and the obligation to protect those wonders.

I know that they will do just that.

I again commend the Senator from Wyoming for his statement, for the various matters that have been succinctly brought forward which are important considerations in the passage or the rejection of this bill. I feel that we are indebted to him for this very worthwhile presentation.

Mr. METCALF. Mr. President, I want to make some comments, but at this time, without losing my right to the floor, I ask unanimous consent that I may yield to the Senator from Kentucky to submit an amendment.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. HUDDLESTON. I thank the distinguished Senator from Montana.

The PRESIDING OFFICER. Does the Senator from Kentucky ask unanimous consent that the pending amendment be laid aside?

Mr. HUDDLESTON. Yes, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 78

Mr. HUDDLESTON. Mr. President, I call up my amendment No. 78.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes amendment No. 78.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, beginning with line 4, strike out all through line 16 and insert in lieu thereof the following: "ducting a program of, or a curriculum which provides for, substantial instructions and research in mining or minerals extraction or which establishes such a school of mines, division, department, or curriculum subsequent to the enactment of this title and which school of mines, division, department, or curriculum 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, division, department, or curriculum providing a program of substantial instruction and research in mining or minerals extraction wherein or pursuant to which education and research in the minerals engineering fields are being carried out and which qualifies students participating therein for careers in mining education, mining research, mining industry, or other related fields:".

On page 13, strike out line 4 and insert in lieu thereof the following: "or department or curriculum conducting or providing for a program of substantial in-".

On page 13, line 9, immediately after "department" insert a comma and the following: "or curriculum".

Mr. HUDDLESTON. Mr. President, my amendment relates to title 3, section 301, with respect to mining and minerals resources and research institutes.

What I am attempting to do here is to relax the criteria established in order for institutions to qualify for funds provided by this bill. I have a full statement which was presented yesterday and is in the RECORD. The managers of this bill on both sides of the aisle have indicated that they will accept the amendment. Therefore, I will not belabor the point at this time.

I just want to point out that the proposed amendment would give the council that is created by S. 7 and which is given the responsibility of administering these funds, the authority to use curricula—as well as schools, departments, and divisions in determining whether or not that institution is eligible for participation in this program. I think this will eliminate some of the arbitrary and unduly restrictive organizational restraints that are contained in the present language and will make the funds more usable and more effective in accomplishing the objectives of the act.

Mr. METCALF. Mr. President, this amendment was provided in the bill as it was passed by the Senate last year. I think it is a worthwhile amendment, and the Senate substantially agreed to it. It would give an opportunity for an educational agency to carry out a program that we believe should be carried out.

I compliment the Senator from Kentucky for offering the amendment. I feel that the Senator was correct in attempting it last year. It was dropped in conference. I hope the amendment will be accepted this year.

Mr. FANNIN. Mr. President, I am very pleased to support the amendment of the Senator from Kentucky. I join the Senator from Montana, the manager of the bill, in recommending the adoption of this amendment.

I am pleased that the Senator from

Kentucky has joined in this discussion and has brought out the need for the University of Kentucky to be involved in this activity, which is quite important to his State. I know the work that will be done will be beneficial not only to his State, but also to the Nation and to our goals in the proposed legislation.

Mr. HUDDLESTON. Mr. President, there has been some discussion about the potential coal production in the Western States. It might be that in the near future, the State of the distinguished Senator from Arizona or the State of the distinguished Senator from Montana might be the leading coal producer in the Nation. But as of this moment, our State of Kentucky enjoys this distinction of being the largest producer of coal in the United States.

So I welcome the support of both Senators for this amendment.

We think it is important that we carry on this research, and I am pleased that my State can make a contribution. The University of Kentucky has been involved in programs of this nature since 1901 and has done an outstanding job. This amendment will provide them with the opportunity to continue to expand and extend this research.

Mr. FANNIN. I say to the distinguished Senator from Kentucky that although I am not going to take a position as to which States produce the most coal, I hope that production in his State does go forward. It happens to be my native land. I commend him for his outlook in that regard. I hope that when we finish with this bill, we will not place any barriers in the path of the State of Kentucky in going forward with its continued production. I am very pleased to have the remarks of the Senator from Kentucky concerning the important part his State now plays in the production of coal in this country.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. METCALF. Mr. President, a great deal has been said today and yesterday about how much coal is around, about how many people will be thrown out of work if we do not use all these billions of tons of coal, about the percentages of the tons of coal available, about the East against the West, and about and other statistics. I think the Senator from Wyoming suggested that we could use those statistics any way we wished.

There is a great deal of coal in Montana, in northern Wyoming, and in the Dakotas. It ranges from lignite to low-grade bituminous. It is low sulfur coal. It can be burned for the generation of electricity. It can be mined very cheaply.

In some areas in America, the seams are only a few feet thick. Some seams are 14 to 20 to 200 feet thick. Sometimes, in northern Wyoming especially, with the huge mining machinery that is available today, a seam of coal 200 feet thick can be mined; and every time the shovel dips, it will load a coal car.

All this makes for economical production of coal, but all this also makes for destruction of some of the top soil and the destruction of the whole area for many hundreds of years in the future if we do not adopt a bill such as this for restoration and reclamation of such an area.

It is tremendously difficult to sit down in a committee, as the Senator from Arizona and the Senator from Wyoming and the Senator from Idaho and all the Senators on the Democratic side have done, and write a bill that is a national bill. A bill that applies to the extremely fertile land of southern Illinois and Ohio and western Kentucky, and at the same time applies to the desert lands in the Four Corners area of Arizona, or the sunny arid lands of Montana and Wyoming and others.

We have testimony in the record from outstanding scientists that it took thousands of years to develop the topsoil of eastern Montana and Wyoming, and that it could not be stockpiled. When it was taken off, the nutrients would erode, and it could not be stored. It should not be mined at all, according to the people who testified.

We have tried in this bill to build a balanced approach so that billions of tons of this coal shall be available for mining immediately; billions of tons shall be set aside for mining in the future; and billions of tons shall be left there until a great emergency arises, and ranching and other operations shall take place.

I wish to speak specifically to the Mansfield amendment. A good many years ago, at the turn of the century, we discovered oil in several of the States, including Montana, Wyoming, and Utah, and huge oil companies sent their representatives and employees out. Under the Homestead Act, they would acquire 160 acres in fee title, owning the surface, the subsurface, including the mineral rights. Then they would turn the fee title over to the oil companies. At that time, it created a national scandal. It was such a scandal that President Theodore Roosevelt and his chief forester, Gifford Pinchot, and others, mounted a campaign that was equivalent almost to the campaign that the environmentalists have mounted recently to change that. They contended that the minerals under that land belonged to the people of the United States and the business of sending people out and homesteading the land and then turning the minerals over to the giant corporations—Standard Oil Co., especially—was a scandal against the people of the United States. So we passed an act, the Grazing Homestead Act. And we said, "Look, some of that land is arid, some of that land does not produce as the land in the Midddle West, so we will give you 640 acres instead of 160 acres, but the Government of the United States will retain those minerals for the people of all America." That was a great conservation achievement of those days when that bill passed.

We set up grazing homesteads and we said people can come out, and instead of getting 160 acres, they got 640. They went out to Montana and they saw these coal outcroppings. They knew about the oil. But they said, "We shall graze this land and we do not care what happens to the minerals." For three generations, they have grazed the land.

We have had a lot of tears shed for the little old homesteader who came out three generations ago and homesteaded that land. He has gotten himself, on the basis of that homestead, a grazing right under the Taylor Grazing Act, under public domain, or up in the National Forest. He has set up for himself a ranching operation and he has been growing cattle out there or sheep or something of that sort. We are shedding a lot of tears for that little guy. But let me tell what really happened.

During the Great Depression, that little guy was sold out and there are not very many of them left. Out in southeastern Montana and northeastern Wyoming, the ranches are 10 and 20 thousand acres and the people there are newcomers. They are the ones who came in during the depression and they picked up this land for its tax value. They picked up that land for $10 or $12 an acre. It is those people we are talking about who are going to get a windfall profit of $5 or $6 or $7 million, just because the Federal Government retained value of their land. If it were only the 640-acre homesteaders, only the third-generation homesteaders that were involved, I would agree with the Senator from Wyoming, and I would say, "Let them get as much money as they can for selling the people's coal." But they are not the people who have most of the land out West in this area. The people who won the land and have control of the land in split ownership are largely the people who came in and took advantage of the Great Depressing and bought this land at bankrupt prices.

This brings us up to the Mansfield amendment. Senator MANSFIELD says, "fine, we retain in the Federal Government the subsurface ownership of the coal—all minerals, but coal especially here today." The Federal Government said that the people of the United States are going to keep that coal for the use of the people. We gave the ranchers the surface rights to operate a ranch or for a ranching operation. We gave them all the surface rights so that they could use that as beneficial property, so they could lease Forest Service land and other Federal land. That is all we gave them. So, Senator MANSFIELD says, we will continue to give these people the surface rights. We will continue to let them operate the ranch that they contracted to operate. And we, the Government of the United States, will keep the coal that is under that land in reserve and refrain from strip mining the surface. We, the Government of the United States, will keep that coal in reserve for future operations.

As Senator MANSFIELD pointed out yesterday, there are billions of tons of coal out there. Millions of tons are already under lease. There are millions of tons that can be leased by the Federal Government that do not have this split ownership. Millions of tons that are leased by the States who own section 16 and section 36. Milions of tons that are leased

by the successors of the railroads, who had these alternate sections of land grants. Millions of tons which have been leased by private individuals. All we say in the Mansfield amendment is that when there is split ownership, those lands will continue to be operated as ranching operations and the Federal Government will keep its coal in reserve.

I can understand a rancher in Montana or Wyoming, who, all at once, has a great big windfall and he finds out that there is coal under his land. He has to send his kids to college, or he wants a retirement fund and he leases his coal. That is an ordinary, understandable, human development. But the Federal Government does not have to do that. We can say that we may need this coal much worse in the future than we need it now. We have a lot of coal land that we can lease already. We say that there is coal there for 500 years. We say all the coal that is leasable will take care of the energy shortage right today.

Therefore, I think that the Mansfield amendment is the wisest approach to this split ownership that we have known. It will not create the toadstools that the Senator from Wyoming is talking about. It will not create any toadstools, because we just will not lease any of the land that has a split ownership.

So I urge my colleagues to again agree to the Mansfield amendment as a conservation amendment, as a continuation of the great conservation victory that was won back at the turn of the century by the conservationists of that time as a way to keep a coal reserve for the people of America, and as a way to solve this problem of a split ownership in the fairest and most equitable manner.

Mr. President, I have been talking about the Mansfield amendment. That is the first amendment, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. METCALF. I am perfectly willing, either in order or out of order, not to yield but to let the Senator from Oklahoma be recognized in his own right.

Does the Senator from Oklahoma wish me to yield to him?

Mr. BARTLETT. That is correct.

Mr. METCALF. I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the Senator from Montana, and I appreciate the opportunity to again speak on this measure.

It seems a strange sort of logic to proclaim that we are debating S. 7 without adequate consideration of the facts. After all, this is a bill that has been in hearings and subject to staff work for many months and even years. However, that does not mean that it has had the right kind of consideration. I submit that this bill is being enacted without the Senate having a clear idea of what it is doing. Therefore, by any standard whatever, this is bad legislation. It is random, hip-shooting legislation. I presume that in the manner of such shooting we will go out later to see what we shot. I am afraid that the victim will turn out to be the national economy.

Mr. President, I wish more Members of the Senate had read a publication issued last year by the National Academy of Engineering entitled "U.S. Energy Prospects, and Engineering Viewpoint." I doubt that they have. In this volume the National Academy of Engineering gives some specifics of what is required if this Nation is to double its coal production by 1985, as we envisage if we are to reduce our reliance on imported oil and even approach energy independence.

Mr. President, I would like to point out at this point that practically every comprehensive energy plan with the goal of having energy independence by 1985 and with the goal of reducing our reliance on unreliable imports, calls for developing the coal production of this country.

The National Academy of Engineering says that by 1985 we will require 700 million tons of production from surface mines. This is in contrast to about 310 million tons of coal produced from surface mines last year. Yet we are today debating a bill which would impose very strict standards on surface mining, and I submit that we have no clear idea what those standards mean. The mining industry tells us that many of these standards would reduce production severely, at a time when we need to increase it. The Department of the Interior has said these standards would reduce production. I submit, Mr. President, that this is reckless and hasty legislation, ill-considered in the worst sense of the word. We cannot sit here in this Chamber and legislate in a vacuum. We need to consider the hard facts of the Nation's need for energy.

We need to consider also the first thing any geologist or mining engineer knows—you have to mine the mineral where it occurs, not by where you wish it were or by methods you wish you could adopt. More than one-third of our Nation's recoverable coal reserves, in terms of present technology and economics, can only be recovered by surface mining. That is the way that we have to mine it. If we do not allow surface mining where necessary, following it with the requirement for good reclamation to the extent that it is feasible, we are depriving ourselves and future generations of important resources of energy that cannot be duplicated within our borders.

Mr. President, I have no argument with the requirements for good reclamation that are in this bill, but I do have arguments with provisions in the bill that go far beyond that extremity, many of them having absolutely nothing to do with reclamation.

Congress has already taken one wishful, wistful trip into an environmental never-never land without clear idea of where it is going and the Nation is suffering thereby. This trip was the Clean Air Act of 1970. We did our best to write in the law a bunch of standards based on wishful thinking and environmental slogans. We did not take the time to find out what would be required to attain them. We simply assumed that if we made the law strict enough and orated hard enough, somebody else would get the air as clean as we declared it must be.

Well, here we are, with a deadline fast approaching, and an energy crisis upon us. The only way we can cope with the energy crisis without splurging ourselves into national bankruptcy is to burn more coal, the only truly abundant energy resource this Nation has readily available.

Mr. President, I would point out that of the coal currently being mined by surface mining, 70 percent is low sulfur content, and another approximately 10 percent is of medium sulfur content. So we will be depriving, because of this legislation, the mining of the low sulfur content coal, the coal that does the least amount of pollution. This course brings us into collision with the Clean Air Act, which prohibits the use of much of our high sulfur coal. Perhaps technology can be improved in time to allow the use of high sulfur coal. Perhaps deadlines need to be extended for compliance with the act. In fact I am sure these things are so, but we are finding them out very late. Meanwhile, the most feasible way of conforming with the standards of the Clean Air Act, whenever they become effective, is the use of low-sulfur coal. And in this bill, S. 7, we are effectively ruling out the mining of much of the low-sulfur coal in the Nation.

In the Clean Air Act, the Congress created a monster which is about to wreck our economy unless we take steps quickly. I will have more to say about that when we consider the matter. My plea today is that we do not duplicate the mistake and create another monster, a kissing cousin to the first, by writing a hopelessly severe and ill-considered surface mining law which will deepen our energy dilemma.

We are discovering that the catalytic converter on our automobiles is a rolling disaster. I hope we do not here create its parallel, the cataclysmic converter by passing S. 7 and endangering the national energy supply.

For example, Mr. President, it became clear in markup sessions on this bill that there were very differing ideas among the Members about what was meant by the language we are using to govern the mining of alluvial valley floors. I am not astonished by this disagreement, only dismayed. It was apparent to me for a long time that we were writing legislation without a clear idea of what we were doing. There is apparently no accepted definition of exactly what constitutes an alluvial valley floor. When the regulatory authority finally begins administering this law, he has nothing to guide him as to what the accepted definition of alluvial valley floor may be. What are its boundaries? The U.S. Geological Survey says this provision could affect millions of acres in the West. It does not know what we mean by the term. We do not know what we mean by the term. Yet, some civil servant is going to have to administer this law. If he makes up his own definition, we can be sure that he will stretch his authority as widely as possible. He will have the authority to prohibit mining under certain conditions on great expanses of coal. In effect he will have the power of life and death over many a coal company. And yet we have not really told him where his authority begins and ends. In effect, this is like letting him drive 60 miles an hour through the middle of town after first painting his windshield black.

Certainly one definition that can be given to alluvial valley floors is the valley areas that are generally agricultural, farm or grazed for cattle purposes. This would mean that much of the area that is potential for coal production would be given over preferentially to agriculture, even though the coal could be removed and the land reclaimed for agricultural purposes with very little disruption and with no impairment as far as the ability of that land to grow a crop or to provide a good stand of grass.

Mr. President, the provisions in this bill intended to protect the rights of the surface owner are a clear example of too much of a good thing. We are proposing to protect the right the surface owner never had—the right of ownership of the mineral resources under his surface. It is also a right that he does not have today because the subsurface, including the coal, belongs and is owned by the Federal Government. The present surface owners, or their predecessors, acquired this land in the full knowledge that they did not own the mineral rights. That coal does not belong to them. It belongs to the people of the United States.

Mr. President, I would like to bring out that this same condition of a dichotomy of ownership of minerals and surface occurs quite often in the case of petroleum production, and sometimes this creates problems because the surface owner has certain rights and the subsurface owner has certain rights, as in this case, and if the mineral owner—in this case the Federal Government—leases to a coal company, and they wish to exercise their rights to produce coal, obviously it inconveniences and creates damage to the surface, and the surface owner should be recompensed properly for that damage. This is the procedure when there is a dichotomy of ownership as far as petroleum is concerned, and I think that a person can realize that even though an oil well is rather small, and the disruption that it causes is small, perhaps, compared to the taking up of the entire surface, having an oil well close to a house is not something that most people would like. So there are ways of paying damages; there are ways of giving and taking but still producing the energy at the least inconvenience to the surface owner.

The people of the United States should have the right to have the energy from this coal which currently belongs to the Federal Government, and they should receive the benefits of the revenue from that coal. The surface owner has a right to be adequately compensated for any damage to his property. However, he does not have, or should not have, the right of absolute veto of the benefits of the people of the United States, and this is the provision currently in the bill. He should not have, furthermore, the right to be unduly enriched by the fact that his property lies over coal owned by these people. Just compensation should not be extended to a windfall.

I think it would be very interesting to see the financial statements of all of the landowners owning land over potential coal deposits in the West because I think we would see or what we would see in Oklahoma, although it does not apply to Oklahoma, is that much of the land in the rural areas is owned by people of some means, and land values today are quite high, even including those where the subsurface minerals are owned by the Federal Government, as is the case here.

So, to give these people a veto over the future energy production of this Nation is a very questionable part of this bill which, I think, should be deleted.

Mr. President, the faults of surface owner protection of S. 7 are certainly not cured by the amendment offered by the Senator from Montana (Mr. MANSFIELD). Prohibiting the mining of privately owned land over Federal coal may protect the farmer and rancher from surface mining. It also protects him from the revenue that he could acquire in the process of these coal reserves.

It affords this willy-nilly protection to the surface owner whether he wants it or not. It effectively prevents mining of not thousands and not millions but literally billions of tons of coal in the West which are owned by the people of the United States, and which are urgently needed for the national welfare.

The distinguished majority leader paints a graphic picture of rural slums that might be created by surface mining. Mr. President, the West knows a lot about rural slums. They go back as far as the old folk songs or the homesteader starving to death on his government claim, and they certainly go to areas of oil development of many years ago.

They were caused by hard times, by drought, by blizzard, by disastrous drops in the price of cattle, wheat, oil, and other commodities. They were not caused by surface mining.

Now, the people who have survived these conditions are told that they cannot dispose of their surface rights for purposes of surface mining, and surface mining with proper and full and complete controls on reclamation.

I do not believe that the surface owner should be unjustly enriched from the sale of rights which are not legally his. On the other hand, I do not believe he should be prohibited from disposing of his land for surface mining at a fair price or receiving fair compensation for the damages done to his land in the mining process. There is a reasonable solution to this dilemma, and it is not the absolute prohibition embodied in the Mansfield amendment.

In fact, Mr. President, there is a reasonable solution to the problems of surface mining, but it is not the prohibitive solution embodied in Senate bill 7. The solution is to require good reclamation and not bully and harass the mining industry with a series of sloganeering prohibitive regulations with the real intention of closing down mining rather than assuring good work. For that reason, Mr. President, I hope that the Senate will reject this legislation.

Mr. President, I would like to point out that the amount of coal that, it is estimated, is currently being produced that no longer would be produced because of the passage of this bill, amounts to close to one-half of the surface mine production of coal today, and this amount that would be prohibited from being produced amounts to a little less than a quarter of all the total coal production.

When this is equated in value to that of oil, because if this bill passes and this amount of coal is not produced, there will need to be a replacement of energy, and the only available source today is more imported oil at very high prices of around $12.50 a barrel, amounting in a year to approximately $7 billion more of a deficit balance of payments.

This Nation cannot afford that kind of deficit balance of payments to its economy, and it certainly cannot afford that amount of greater reliability on unreliable foreign sources of oil.

So I hope that the Senate will reject this legislation. If it does not, I hope that the President will again veto it and insist on the passage of legislation which adequately protects both the environment and our energy supplies. They are not incompatible.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the amendment of the Senator from Montana.

Mr. METCALF. Mr. President, before we vote on the Mansfield amendment, I would like to have Senator MANSFIELD speak for 1 or 2 minutes. Since we cannot vote until 2:30, can I get unanimous consent that at 2:20 the Mansfield amendment will be called up, and the first vote, will take place at 2:30?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. METCALF. Now, the second amendment, is the McClure amendment, and Senator MCCLURE is not in the Chamber, I would be delighted to respond to the McClure amendment for just a few minutes at this time and then we can take that vote up after the Mansfield amendment.

Mr. FANNIN. Mr. President, do I understand, if the Senator will yield, that there is no time limitation on the McClure amendment?

Mr. METCALF. No, the Senator would have an opportunity to speak on his amendment and there would be time to vote after the 2:30 vote.

Mr. FANNIN. In other words, there is no time limitation and no time certain on the McClure amendment?

Mr. METCALF. No, the only time limitation, as I understand it, Mr. President, is that we have agreed to vote on the Mansfield amendment at 2:30 and it will be taken up again so that Senator MANSFIELD can debate on it at 2:20.

The PRESIDING OFFICER. The Senator is correct, it will be voted upon at 2:30.

Mr. FANNIN. I thank the distinguished Senator.

Mr. METCALF. The McClure amendment is a simple amendment. The provision in S. 7 says there should be no surface mining in the national forest.

Now, the administration concurs in this amendment and suggests that we provide that there be mining in the national forest. The administration testified that about 4 percent of the coal in America was in the national forest.

Most of the coal in national forests is in the Custer County National Forest in eastern Montana. As the Senator from Idaho suggested the Custer National Forest is not a forest such as we have on the Pacific coast of redwoods or Douglas-fir, or things of that sort. There is a lot of sagebrush, there is a lot of open land, there is a lot of land that was set aside, indistinguishable from other land or other prairie and grazing land.

But, nevertheless, this is an agreement that we have all entered into that there shall be no surface mining on the national forest. It will not interrupt any of the patterns of surface mining because there is not any surface mining on the national forest, nor have we been told that there will be any leasing in national forest land.

The Department of the Interior and the Department of Agriculture agreed in the testimony that they do not want to lease land for surface mining in the forest.

Now, some suggestion has been made that this would set a precedent that would open up further prohibitions against mining in national forest lands. The present law, of course, is that in all the public domain anyone can go in and locate a claim for gold, silver, copper, and other locatable minerals in a national forest or on BLM land.

This does not disturb that situation, nor does it disturb the idea that one can have it underground in the national forest. The only thing we have said is that there shall be no surface or strip mining of coal in any of the national forests.

Mr. President, I want to bring the McClure amendment up for vote right after the Mansfield amendment. I am perfectly willing to have the Senator make his further statement in favor of the amendment at the present time and then we could vote immediately after the Mansfield amendment, at 2:30, or the Senator can reserve his statement.

Mr. McCLURE. Mr. President, will the Senator from Montana yield for a question?

Mr. METCALF. I will certainly yield.

Mr. McCLURE. Mr. President, that is certainly satisfactory with me, if we can have the vote on my amendment immediately following the vote on the Mansfield amendment.

They are somewhat similar in issue. They go in opposite directions, as the Senator from Montana knows. Would the Senator respond to the question of whether or not the yeas and nays have been ordered on the Mansfield amendment?

Mr. METCALF. No, they have not.

I know Senator MANSFIELD wants the yeas and nays on the Mansfield amendment. As soon as we get enough people in the Chamber, I would be delighted to ask for the yeas and nays and then if the Senator from Idaho wants the yeas and nays on his amendment, they could be requested.

Mr. McCLURE. Yes, sir, that would be my desire, Mr. President, if we could. I certainly support the Senator from Montana (Mr. MANSFIELD) in the request for yeas and nays on his amendment and hope we could have the votes back to back, immediately following each other, following 2:30 or after.

Mr. METCALF. I am pleased at this time, on the McClure amendment, to yield the floor to the Senator from Idaho so that he may make his statement and then as soon as we get enough Senators in the Chamber we can provide for a rollcall vote on the McClure amendment and the Mansfield amendment, back to back at 2:30, beginning at 2:30.

I yield to the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator for yielding and I shall be very brief because the major thrust of the argument in favor of my amendment was made yesterday.

I think the two amendments taken in conjunction with each other need to be considered in their total impact. The Mansfield amendment would further exacerbate the problem that is already present in the bill. My amendment would somewhat alleviate the problem that is already inherent in the bill in the reduction of the amount of coal which might be recovered from the public lands of the United States.

Just in rough terms, and I realize we cannot get into the statistical game very easily without losing listeners, we quote too many figures and all of a sudden people stop listening, but just in rough terms, the existing bill probably restricts all of the recoverable coal on western public lands in the United States due to the checkerboard pattern of ownership.

If the Mansfield amendment is adopted, that would increase to about 75 percent, and if the McClure amendment were adopted and the Mansfield amendment were defeated, we would have increased the amount of recoverable coal by about 30 percent on the public lands and substantially increased our ability to respond to the energy crisis and the threat of the outflow of dollars in world trade as we seek to buy energy for which this coal would be the substitute.

If we are really serious about the security aspects of availability of energy, if we are really serious about the economic consequences of growing dependence upon foreign sources of energy, then I would think that this Congress would want to be on record as favoring the substitution of U.S. coal.

I think there has been enough said about the energy crisis in recent years to at least convince those who know the facts that the crisis is real.

There are people across this land who see abundant gasoline at the pumps today and assume that the crisis was fabricated.

There are those, however, who recognize that that current abundance can just as quickly become a shortage. Even with the current abundance we recognize the growing dependence upon foreign oil as a source of supply. The high prices which are in effect now become a very real threat to the economic stability of the United States and, indeed, of the entire western industrialized world.

Those who have been working with this problem, and it does not make any difference whether it is the Senator from Washington (Mr. JACKSON), or the Senator from Arizona (Mr. FANNIN), being the ranking member and the chairman respectively of the Committee on Interior and Insular Affairs, or those who have otherwise been engaged in the energy studies by other committees, recognize the necessity of reducing our dependence upon high-priced foreign oil imports.

We sought a variety of solutions to the problem that is thus presented to us. This bill today can be either an assist or a detriment to our efforts toward reduced dependency upon foreign energy and all the implications which flow from that decision. I believe the two amendments on which we will vote are very good examples of the kind of thrust that must be decided and must be determined by the Congress of the United States.

I would urge that when the Senate does vote on the McClure amendment, after having voted on the Mansfield amendment, that the Senate will have taken a very positive and direct step toward solving the energy crisis, so far as we can in this legislation, and turned away from making the crisis worse and reducing our ability to deal with that crisis as we take the most obvious step that everyone suggests. That is a growing use of our coal reserves within this country.

Mr. METCALF. If the Senator will yield for a moment, I ask for the yeas and nays on the Mansfield and McClure amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, I concur with what the distinguished Senator from Idaho has stated, and I support his amendment.

Mr. President, the Senator's amendment gives flexibility to the Secretary of Agriculture to set aside the prohibition on surface coal mining operations for a specific area or areas, if, after due consideration of existing and potential multiple resource uses and values, he determines such action to be in the public interest. Surface coal mining on any such area shall be subject to the provisions applicable to other Federal lands as contained in section 523.

Mr. President, what the Senator from Idaho is doing is recognizing the tremendous obligation we have to the people of this Nation to leave their options available. Those options can be utilized to solve the tremendous problem we have in this country over our balance of payments. As very eloquently brought out, the balance of trade has significantly changed from 1973 when we had imports of around $19 billion, including petroleum and other raw materials, to 1974 when that figure jumped up in excess of $42 billion. So this is the threat that we face in this country of ours.

If we are to be forthright and recognize the obligation we have to the people of this country, then we will take the precautions necessary to protect them.

It is easy to say that this land should be set aside and that area should be set aside, and that we should have a wilderness area here and one there. It can be very popular with certain segments of our society. But is it the wisest thing to do? Is it right? Is it going to help solve the problems this Nation faces?

There is a tremendous obligation we have that we are not meeting, and that is the unemployment situation that we have in this country today.

Let us look at that one item. What would be involved if we go forward with the program that has been outlined by the National Academy of Engineering Task Force concerning U.S. energy production?

If we do what they advocate, then let us look at it from the standpoint of manpower. This is a very serious problem with the unemployment in this Nation today. Let us talk about coal miners.

The 1973 coal mining population was about 165,000. By 1985 with increased productivity of 4,300 tons per man versus 3,420 in 1973, an increase of 45,000 miners, about 25 percent will be needed if the task force suggestion of 11.7 million barrels per day of oil equivalent is to be realized.

In other words, Mr. President, we are talking about a possibility of 45,000 additional jobs. Of course, those are miners. Each one of those jobs in the mines results in other jobs in associated industries and in the communities where these miners are living.

Then let us go back to engineers. Even more rapidly the need for engineers comes forth.

If the bulk of the new engineers is to have any measurable effect on the projects to be brought on line by 1985, those new engineers will have to be available by 1980. This means only 5 years are open to educate and train approximately 30,000 new engineers for the entire energy industry, or a 40-percent increase over the 1973 total energy industry engineering population. Much of that is in the mining industry because that is where many of the jobs will be available almost immediately.

Then we talk about construction workers. The working men are expected to more than double by 1985 from the estimated 149,000 total at the end of 1973. In other words, we are talking about an increase in construction workers of almost the total number that are estimated to be employed today.

Then, Mr. President, there is the demand for boilermakers, with an estimated increase of 3,000.

We can go on and on with the increased employment that will be involved if we go forward with this program.

What if we do not? If we do not, then we are going to be importing more and more oil and petroleum products from the foreign countries. That is a problem in itself. We have talked about the tremendous problem we have in paying for this oil. We are not exporting quantities of products that even add up to a fraction of what we are importing. This is one of our most serious problems.

We can talk about the dollar, and we can talk about the balance of payments, because that is certainly a great factor. We can talk about our international monetary program. All of these matters are affected.

The increased coal that could be mined if the amendment of the distinguished Senator from Idaho is approved is a great factor in what we will do in the future to favorably affect the balance of payments.

So, Mr. President, we are talking about this Nation's future. We are talking about the economy of this country. We are talking about the ability to meet requirements that we have set as a goal for ourselves, and that we feel must be met.

Mr. President, if we fall down in carrying through with a program that can help solve this country's problem in that regard, and that is the coal program, then I feel we have failed in our obligation.

Mr. President, the proponents of S. 7 have shown time and time again that they are remarkably sensitive on one issue. That is the loss of jobs and coal production that will result from its passage.

This body has heard them insist that no coal production losses will result from S. 7, and that is just not correct.

We have testimony from the Department of the Interior, from the industry people, from economists, from academicians, and from others who have testified that this will result in a big cut in the production of coal in this country.

Let us talk, too, about the results from the standpoint of economics.

Utility rates have soared at record rates because of the cost of fuel, and the voices of outraged consumers can be heard across the land. We have had some marches in this area in the last few days. If we enact this bill as it is now drafted, the cost of the oil that will be required to replace this coal will itself drive electric rates up 10 to 16 percent. This does not include the far greater cost that will come as growing demand chases up the price of a shrinking supply of coal. We will have a shrinking supply of coal unless we do everything within our power to develop the resources of this land.

Far more economic impacts will be felt as the effects of this industrial trauma ripple across the economy. Once the Nation may have had the wealth to indulge its House and Senate Interior Committees. But that day is gone. We simply cannot afford S. 7.

The passage of this bill will hamstring all efforts to wean ourselves from imported oil. It will seriously undermine our national security and will put thousands of Americans out of work. This, Mr. President, is not environmental protection, because we do provide in this measure the protecton that is essential. I am sure that if we approach the voting upon this measure with the knowledge of what will take place if it is adopted, we will be rendering a great service to our country.

We cannot promiscuously pass measures without going into them very thoroughly. We talk about the Mansfield amendment. It has been discussed here many times. We have had facts and figures about what it would do. The distinguished Senator from Idaho has brought out what would result. I feel that we have an obligation to this body and to the people of this coumry not to pass measures that will be so detrimental to the need for energy in this country.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that Mr. Rick Herod, a member of my staff, may have the privilege of the floor during the continuation of the consideration and disposal of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHIAS). Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I have been looking at a copy of the bill now before the Senate and have been reviewing the committee report. They are quite lengthy—the bill and report being more than 250 pages long—and it is difficult for a Member not serving on the committee to be familiar with the provisions of the entire bill, which appears to be complex and technical. However, the regulation of strip mining does appear to be a matter that should be left with the respective States, without unnecessary intervention by the Federal Government, and I would like to associate myself with the minority views in the committee report in this regard.

Let me read just the opening paragraph on page 239 which expresses this point:

> The Congress in the last session and again in this current session has moved forward to preempt state laws governing reclamation of strip mined land. Why does the Congress feel this need when 32 States already require reclamation of surface mined land and of these, 25 have updated or enacted new laws since 1970? Their laws are tailored to meet the peculiar and specific climatic, geologic, geograpic and other conditions which vary from state to state. Is the land not really being reclaimed under state enforcement? Where is the evil? Are some which do, failing to combat their problems? What necessitates a federal law?

Mr. President, I am not an expert on mining and do not pretend to know the details of the technical issues involved, but, I know, we do have a serious energy

problem. I am sure every Member of the Senate will agree with this. But, Mr. President, we cannot burn esthetic values and we cannot burn natural beauty; we have to strike a balance between our desire to have sufficient energy, a very urgent need to have a sufficient supply of energy, and our desire to maintain a healthy and wholesome and beautiful environment.

It is my understanding that my own State of Virginia is among the States with laws governing surface mining and that 25 of these States, including Virginia, have extended or tightened such laws since 1970. It is my feeling that the Federal Government is increasingly taking over the rights of the individual and preempting State and local laws. In my opinion, this surface mining legislation represents another example of increasing Federal involvement in matters that should be properly determined by the States under their police power.

In numerous instances, Mr. President, Federal regulation has hindered the small businessman throughout the country. This bill, designed to limit surface mining in as many instances as possible through overly stringent environmental and enforcement regulations, has the potential of shutting down or crippling many of these small mining concerns in Virginia and elsewhere in the country. In a letter to Secretary of the Interior Rogers Morton, the Virginia Surface Mining and Reclamation Association, Inc., makes the point that this bill, if enacted, would have an adverse effect in Virginia and nationally on loss of jobs and a significant decrease in coal production. At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a copy of this letter for the benefit of my colleagues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VIGRINIA SURFACE MINING AND RECLAMATION ASSOCIATION, INC.,
Norton, Va., February 24, 1975.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Our membership commends you and your Staff for again making Congress aware of the terrible cost this country will pay if either S. 7 or H.R. 25 should become law. This legislation, if passed and enforced as written, would virtually eliminate coal surface mining in Virginia's mountainous coal region.

In support of your conclusions, we would point out that over 2,000 people are directly employed on our Virginia coal surface mines. An estimated 5,000 to 7,500 additional workers earn their livings in related work such as trucking, equipment maintenance, railroading, related services, etc. It is obvious that Virginia alone would suffer neary 20% of your 47,000 estimated jobs lost. Interestingly, we produce just over three percent of the nation's surface-mined coal, or about 10 million tons annually.

Neither this lost production nor the lost jobs can be made up by underground mining. Expansion capital and skilled labor are not available here. In fact, total Virginia coal production would decrease drastically. One of the many reasons is that high-sulphur underground coal from some Virginia mines is blended with low-sulphur surface coal. The resulting product will meet stringent sulphur emission standards passed by certain localities. Without the surface coal production, these underground mines would not have a market for their product.

In summary, Mr. Secretary, these bills are capable of plunging us even further into recession and energy shortages while doing little to improve the environment.

Thank you for taking time to consider our comments. We will be pleased to provide any additional information or assistance you may desire.

Very truly yours,

B. V. COOPER,
Executive Director.

Mr. WILLIAM L. SCOTT. Mr. President, the letter from the Virginia Surface Mining and Reclamation Association indicates that over 2,000 people in our State are directly employed in Virginia in coal surface mining and an estimated 5,000 to 7,500 additional workers earned their living in related work such as trucking, equipment, maintenance, railroading, and related services. This is something that is of importance to our State. That is just one of the reasons, Mr. President, why I cannot support this bill as it comes from the committee.

Mr. President, it seems to me that when there appears to be substantial support for using more coal, our most abundant source of energy, legislation like this would have a detrimental effect on expanding domestic coal supplies. We are told the country will face the possibility of less electricity because of potential coal production shortages in the range of 15 to 20 million tons for the first year and 48 to 141 million tons per year thereafter. President Ford made this point when he vetoed a similar measure passed late in the 93d Congress, saying the bill would cause:

Excessive coal production losses, including losses that are not necessary to achieve reasonable environmental protection and reclamation requirements.

Certainly, I support reasonable protection of the environment but I believe we should not place business in a straitjacket. While the bill has worthwhile goals of protecting the ecology and insuring adequate reclamation of the land, it is my understanding that the measure goes much farther. It is intended, according to the bill's purpose, to set up basic Federal guidelines and minimum State standards on strip mining. But experience has shown in many instances that the Federal Govenment, through its regulatory agencies, has often made it very difficult for the businessman to comply with the law. Citizen suit provisions, like those in this bill, also have posed considerable problems. Some of our environmental laws, for example, may need to be changed to not only allow greater energy production but to insure continuation of our high standard of living and availability of jobs.

In particular, I note that some of the environmental requirements set out in this bill appear to be so stringent that their practical application is questionable, if not impossible. Some have expressed reservations over the potential long delays in getting a permit because of the stringent antipollution and reclamation standards required under this measure. In addition, prolonged delay may also result by a requirement that approval of State programs and promulgation and implementation of Federal programs shall be major Federal actions under terms of the National Environmental Policy Act, thus requiring environmental impact statements. Mr. President, this act has slowed down numerous projects in the past, such as the Alaskan pipeline and could well postpone strip mining operations in many areas of the country when we need the coal now.

I believe, Mr. President, that sometime in the future, we shall have to take another look at the National Environmental Policy Act and the necessity for filing environmental impact statements that go into great detail and, oftentimes, cost many thousands of dollars, and should perhaps put a limit on the size of the environmental impact statements, some limit on the time that is required for their preparation, and some limit on the cost of an environmental impact statement.

Mr. President, we need a balance between our desire for a clean environment and our need for increasing coal production in this country. I believe this bill is unreasonable and basically unworkable and should be rejected in its present form or, if passed, that the President should veto it.

The PRESIDING OFFICER (Mr. MATHIAS). The hour of 20 minutes past 2 o'clock having arrived, under the previous order, the Senator from Montana (Mr. MANSFIELD) is recognized.

Mr. MANSFIELD. Mr. President, I have said what I have to say on yesterday. It is all in the RECORD.

The issue is a simple one. The issue is, do we want to give a homesteader who has built up his spread over a period of decades, but who does not own the subsurface rights, the so-called mineral rights, the protection which I think he deserves, or do we want to let him be prey to the coal interests, and to bring about the creation of a wasteland in a State like Montana, which, may I say, has more than half the reserves of coal in eight western States?

Of Montana's total of 107,727 million tons of coal, 65,165 million tons could be mined by the underground method, to which I am not opposed.

The amendment at the desk, which will be voted on shortly, would limit the Federal Government's role in coal development, and would also give some hope to those ranchers and surface owners who are not interested in having their land stripped at any price, and who wish to continue their current livelihood. These people are a part of a way of life which must be preserved and protected. These people operate spreads which have 2 or 3, or maybe 5 inches of topsoil. It is a fragile economy, on which not much in the way of products can be grown; therefore, it is mostly grazing land for sheep and cattle.

There have been proposals that this land could be reclaimed, but the land is so fragile that it well could be impossible to reclaim most of it.

There is a growing awareness of what is happening in the West, and I am convinced that the people of the Great Plains and Rocky Mountains do not want to become the "utility backyards of the Na-

tion." The adoption of my amendment will, in some degree, slow down but not impede the process, and it will give the little guy a chance.

The amendment reads as follows:

SEC. 717. All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine. Provisions of this subsection shall apply only to coal deposits leased after January 1, 1975.

Mr. President, these ranchers are not numerous. They do not pack a great deal in the way of political punch because they lack numbers. But I think that these people, who opened up the West, who settled a barren country, who made something out of an area which had not amounted to much before, people who have developed ranches and number two or three generations so far as length of occupancy is concerned, are entitled to that kind of protection, the homestead law notwithstanding, which created an anomaly—and that is what it is—with the surface rights held by the rancher, but with the subsurface rights held by the U.S. Government. This does not apply to land in which the Federal Government owns the surface and the subsurface rights. It applies only to those spreads in which there is a divided ownership. This is one way in which the Senate can make sure that those people will be given the protection which I think they need at this particular time.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. FANNIN. Mr. President, I would just like to comment about my understanding of the wording of this proposal.

As I read it, the surface owner does not have an option as to whether or not that land is to be surface mined; is that correct?

Mr. MANSFIELD. That is correct, because if there happens to be a surface owner who wants to exercise an option, I do not think he should do so at the expense of his neighbors, and create a checkerboard pattern which would result in the ruin of the area.

Mr. FANNIN. I understand the concern of the Senator from Montana, but let us say he and all his neighbors felt they wanted to mine the land, and they felt it could be improved by mining the land; they still would not have that option, under the Senator's amendment?

Mr. MANSFIELD. No, because in my opinion it would not be improved. What would happen would be a fat down payment and probably royalties of a significant nature which would go to one or two of the ranchers, but what would happen to the rest of the area?

I think what we have to do is consider this collectively, and not on an individual basis; and as far as I know, in eastern Montana, most of the ranchers do not want to sell their spreads for coal development.

Mr. FANNIN. As I understand the Senator's amendment, it applies to other than just the State of Montana.

Mr. MANSFIELD. Oh, yes, but I am using this for an example because here is where we have the greatest amount of coal reserves. If they want to deep mine the coal, that will be fine; but I am afraid of strip mining, which will make a wasteland out of the eastern part of my State and other parts of the Nation as well, where there is coal in development quantities.

Mr. FANNIN. Mr. President, my point is that this coal belongs to all the people of the United States. If it is not surface mined, perhaps half of it or maybe more is lost, because I am sure the Senator will agree, much of it could not be mined by underground methods.

Mr. MANSFIELD. Will the Senator yield right there? I wonder what the Senator's attitude would be if he happened to be a Montanan whose family had lived on this land for many generations and who was now faced with probably the most critical question confronting him in his lifetime.

If I know the distinguished senior Senator from Arizona, and he was in that category, I think I could say without question that he would be on my side on this particular issue.

Mr. FANNIN. I just say to the distinguished majority leader—and certainly I have great respect for him and for his sincerity and dedication to the people of Montana and to the people of the United States—that I understand how he looks at this matter, but I cannot agree, because if I had people in that situation in my State of Arizona, I would want them to have the option of making this decision regarding their surface rights.

I still feel that the people of the United States of America should have the option to determine what they do with their rights, and certainly they do have rights in Montana, Arizona, or wherever it might be, if they own the subsurface. That is the question involved in this amendment.

Mr. MANSFIELD. The Senator is correct. But I do not approve of this divided ownership of the surface by the private individual, and the subsurface by the Government, even though it was part of the Homestead Law, and I think that these individuals have as much right as individuals as do the people of the United States, represented by the U.S. Government.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The hour of 2:30 having arrived, under the previous order, the question now occurs on agreeing to the amendment of the Senator from Montana.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Ohio (Mr. TAFT).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—39

Abourezk	Jackson	Pastore
Bayh	Javits	Pell
Biden	Kennedy	Proxmire
Brooke	Leahy	Randolph
Case	Magnuson	Ribicoff
Church	Mansfield	Roth
Clark	Mathias	Schweiker
Cranston	McGovern	Scott, Hugh
Culver	McIntyre	Sparkman
Eastland	Metcalf	Stafford
Hart, Philip A.	Mondale	Tunney
Humphrey	Muskie	Weicker
Inouye	Packwood	Williams

NAYS—56

Allen	Ford	McGee
Baker	Garn	Montoya
Bartlett	Glenn	Morgan
Beall	Goldwater	Moss
Bellmon	Gravel	Nelson
Bentsen	Griffin	Nunn
Brock	Hansen	Pearson
Bumpers	Hart, Gary W.	Scott, William L.
Burdick	Haskell	Stennis
Byrd, Harry F., Jr.	Hatfield	Stevens
Byrd, Robert C.	Hathaway	Stevenson
Cannon	Helms	Stone
Chiles	Hollings	Symington
Curtis	Hruska	Talmadge
Dole	Huddleston	Thurmond
Domenici	Johnston	Tower
Eagleton	Laxalt	Young
Fannin	Long	
Fong	McClellan	
	McClure	

NOT VOTING—4

Buckley	Percy	Taft
Hartke		

So Mr. MANSFIELD's amendment was rejected.

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to vote on amendment No. 82, offered by the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 27, nays 68, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—27

Allen	Fong	Moss
Baker	Garn	Pearson
Bartlett	Goldwater	Scott, William L.
Bellmon	Griffin	Stevens
Brock	Hansen	Thurmond
Cannon	Helms	Tower
Curtis	Hruska	Young
Dole	Laxalt	
Domenici	Long	
Fannin	McClure	

NAYS—68

Abourezk	Hart, Philip A.	Morgan
Bayh	Haskell	Muskie
Beall	Hatfield	Nelson
Bentsen	Hathaway	Nunn
Biden	Hollings	Packwood
Brooke	Huddleston	Pastore
Bumpers	Humphrey	Pell
Burdick	Inouye	Proxmire
Byrd,	Jackson	Randolph
Harry F., Jr.	Javits	Ribicoff
Byrd, Robert C.	Johnston	Roth
Case	Kennedy	Schweiker
Chiles	Leahy	Scott, Hugh
Church	Magnuson	Sparkman
Clark	Mansfield	Stafford
Cranston	Mathias	Stennis
Culver	McClellan	Stevenson
Eagleton	McGee	Stone
Eastland	McGovern	Symington
Ford	McIntyre	Talmadge
Glenn	Metcalf	Tunney
Gravel	Mondale	Weicker
Hart, Gary W.	Montoya	Williams

NOT VOTING—4

Buckley	Percy	Taft
Hartke		

So Mr. MCCLURE's amendment was rejected.

Mr. HUDDLESTON. Mr. President, I call up my amendment to S. 7.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself and Mr. FORD, proposes an amendment:

On page 26, line 13, immediately after "title" insert the following: "after receiving and considering the recommendations of the Governor of that State or the head of the governing body of that tribe having jurisdiction over that reservation, as the case may be".

Mr. HUDDLESTON. Mr. President, the amendment I am offering merely gives the Governors of the various States some additional input into the program of expenditures of the reclamation funds which are provided in this act. Under the legislation, as reported, the Secretary of the Interior has the authority to spend these funds and fifty percent must be spent within the State where they originated.

My amendment simply insures that the Governors shall submit recommendations and the Secretary receive and consider them prior to determining how these funds are to be spent. They must be spent, of course, within the guidelines that are already set out within the act. The Secretary will still have the final authority as to which project shall be approved. But, under the amendment, the Governors will have additional input.

I believe that the amendment is acceptable to the managers of the bill on both sides of the aisle, and I think it will contribute to the beneficial and effective use of the reclamation fund.

Mr. JOHNSTON. Mr. President, on behalf of the committee, we will accept the amendment. We believe it is a worthwhile improvement to give some real input into this matter by the Governors of the States. We will accept it enthusiastically.

Mr. FANNIN. Mr. President, I agree with what the floor manager of the bill has stated. The Senator from Kentucky is to be commended for bringing this matter into proper perspective, so that the Governors will have their input.

Mr. HUDDLESTON. I thank the distinguished Senators.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter relating to this subject from the National Governors' Conference.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' CONFERENCE,
Washington, D.C., March 11, 1975.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUDDLESTON: The National Governors' Conference supports your amendment to the Surface Mining Control and Reclamation Act of 1975 which would give the Governors of the individual States more flexibility and discretion over the utilization of revenues from the proposed abandoned coal mine reclamation fund.

It is extremely important under current economic conditions that Governors be given the necessary flexibility and responsibility in federal laws to implement the policies of Congress in an efficient and orderly manner with due recognition of environmental concerns.

Sincerely,

JAMES L. MARTIN,
Director, State-Federal Affairs.

Mr. HUDDLESTON. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 75

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I call up my amendment No. 75.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete section 510(b)(5).

Mr. HANSEN. The purpose of this amendment, Mr. President, is to delete section 510. The reason I do that is that this section is entitled "Permit or Approval Denial." Essentially, if the Senators will bear with me, I think I can point out why this particular section is superfluous to the bill.

On line 15 of section 510, this language is found:

(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—

Then a number of things, including:

(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 farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant to such operations.

I do not argue with that, but I make the point, Mr. President, that in section 515, the section which deals with environmental protection performance standards, under subsection (E) of that section, this language is found:

(E) preserving to the maximum extent possible, using the best available technology, throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semi-arid areas of the country; and

My point is that there really is no reason at all to have contained in the permit section that I read, 510, a provision which predetermines the efficacy of a reclamation effort.

That is the whole thrust of this bill, and throughout, I think, is embodied the concept that before any land can be strip mined, it must be demonstrated that it can be reclaimed. Section 515 assures that kind of reclamation. It assures it specifically for alluvial valley floors and retaining section 510 in the bill, the section which my amendment would eliminate, precludes an operator from being able to show what can be done through reclamation.

I hope that Senators will see the wisdom in passing my amendment, No. 75, and giving the energy company, the coal operator, the opportunity to see if reclamation can be obtained so as to protect the integrity of alluvial valley floors. If, and only when, that can be done will the operator be able to go ahead and mine the coal under those lands. I think it makes sense to adopt the amendment. I hope that it will be agreed to.

I move the adoption of the amendment.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I wish to bring to the attention of my colleagues just what is in the legislation now and it appears in section 510(b). I shall paraphrase it so that it will not take a great deal of time.

It says that no permit shall be approved unless:

(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;

* * * * *

(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 farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant to such operations.

Mr. President, this is a very difficult situation, because we have language that just cannot be understood.

During full committee consideration of S. 7, the surface mining bill, Senator HANSEN and Senator METCALF asked the

NAYS—68

Abourezk	Hart, Philip A.	Morgan
Bayh	Haskell	Muskie
Beall	Hatfield	Nelson
Bentsen	Hathaway	Nunn
Biden	Hollings	Packwood
Brooke	Huddleston	Pastore
Bumpers	Humphrey	Pell
Burdick	Inouye	Proxmire
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Gravel	Metcalf	Tunney
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NOT VOTING—4

Buckley	Percy	Taft
Hartke		

So Mr. MCCLURE's amendment was rejected.

Mr. HUDDLESTON. Mr. President, I call up my amendment to S. 7.

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The assistant legislative clerk read as follows:

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Mr. HUDDLESTON. Mr. President, the amendment I am offering merely gives the Governors of the various States some additional input into the program of expenditures of the reclamation funds which are provided in this act. Under the legislation, as reported, the Secretary of the Interior has the authority to spend these funds and fifty percent must be spent within the State where they originated.

My amendment simply insures that the Governors shall submit recommendations and the Secretary receive and consider them prior to determining how these funds are to be spent. They must be spent, of course, within the guidelines that are already set out within the act. The Secretary will still have the final authority as to which project shall be approved. But, under the amendment, the Governors will have additional input.

I believe that the amendment is acceptable to the managers of the bill on both sides of the aisle, and I think it will contribute to the beneficial and effective use of the reclamation fund.

Mr. JOHNSTON. Mr. President, on behalf of the committee, we will accept the amendment. We believe it is a worthwhile improvement to give some real input into this matter by the Governors of the States. We will accept it enthusiastically.

Mr. FANNIN. Mr. President, I agree with what the floor manager of the bill has stated. The Senator from Kentucky is to be commended for bringing this matter into proper perspective, so that the Governors will have their input.

Mr. HUDDLESTON. I thank the distinguished Senators.

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Washington, D.C., March 11, 1975.

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Sincerely,

JAMES L. MARTIN,
Director, State-Federal Affairs.

Mr. HUDDLESTON. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 75

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I call up my amendment No. 75.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete section 510(b)(5).

Mr. HANSEN. The purpose of this amendment, Mr. President, is to delete section 510. The reason I do that is that this section is entitled "Permit or Approval Denial." Essentially, if the Senators will bear with me, I think I can point out why this particular section is superfluous to the bill.

On line 15 of section 510, this language is found:

(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—

Then a number of things, including:

(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 farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant to such operations.

I do not argue with that, but I make the point, Mr. President, that in section 515, the section which deals with environmental protection performance standards, under subsection (E) of that section, this language is found:

(E) preserving to the maximum extent possible, using the best available technology, throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and semi-arid areas of the country; and

My point is that there really is no reason at all to have contained in the permit section that I read, 510, a provision which predetermines the efficacy of a reclamation effort.

That is the whole thrust of this bill, and throughout, I think, is embodied the concept that before any land can be strip mined, it must be demonstrated that it can be reclaimed. Section 515 assures that kind of reclamation. It assures it specifically for alluvial valley floors and retaining section 510 in the bill, the section which my amendment would eliminate, precludes an operator from being able to show what can be done through reclamation.

I hope that Senators will see the wisdom in passing my amendment, No. 75, and giving the energy company, the coal operator, the opportunity to see if reclamation can be obtained so as to protect the integrity of alluvial valley floors. If, and only when, that can be done will the operator be able to go ahead and mine the coal under those lands. I think it makes sense to adopt the amendment. I hope that it will be agreed to.

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The assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I wish to bring to the attention of my colleagues just what is in the legislation now and it appears in section 510(b). I shall paraphrase it so that it will not take a great deal of time.

It says that no permit shall be approved unless:

(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;

* * * * *

(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 farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant to such operations.

Mr. President, this is a very difficult situation, because we have language that just cannot be understood.

During full committee consideration of S. 7, the surface mining bill, Senator HANSEN and Senator METCALF asked the

Department of Interior, through the Geological Survey, to provide the committee with their best estimate of the coal which potentially could be precluded from being mined in the Powder River Basin and the Fort Union Formation, if the alluvial valley floor definition on page 145 is applied to section 510(b)(5)—the permit approval or denial section. This provision states that surface mining would be precluded if located west of the 100th meridian, if it would have a substantial adverse effect on alluvial valley floors where such valley floors are significant to farming or ranching operations. In other words, this is a ban on surface mining, not because the land cannot be reclaimed under the standards, but because farming or ranching operations are given priority over surface mining for the coal. Senators HANSEN and METCALF asked Geological Survey to assess for them in a small area—the Powder River Basin—what potential lands could be excluded based upon application of this provision. Geological Survey in their briefing on March 7 indicated that the bulk of the strippable coal located in the Powder River Basin would be precluded from surface mining or potentially could be if the provision were not revised.

During the House-Senate conference during the 93d Congress, the conferees were under the belief that the definition on page 145 of "alluvial valley" floors was a definition provided by the Geological Survey. The Geological Survey at their briefing, however, disclaimed authorship of this provision and in fact offered alternate language to tighten the definition which would limit the application of this ban. They suggest inserting in the definition, on page 145, the words "flood plains and channels underlain by" after the word "means" in line 6, and on line 7, page 145, after the word "holding" insert the word "perennial". This definition instead of precluding 60 to 80 percent of the coal in the Powder River Basin would only limit a small percentage of the coal capable of being surface mined at the present time.

Retention of the language banning surface mining on alluvial valleys where such mining would adversely affect ranching or farming operations on alluvial valleys is in essence, a contradiction to the surface owner consent provision, section 716. That section gives the surface owner the prerogative of allowing or precluding surface mining under his land and yet section 515(b)(5) denies the rancher or farmer the prerogative of exercising that consent. The rancher or farmer will never be asked to grant his consent if the regulatory authority decides that the ranching or farming operations will be adversely affected by surface mining because it is located in an alluvial valley.

Recall the legislative history of the alluvial question—the House, in the 93d Congress, adopted on the floor a total ban on surface mining in alluvial valleys. The Senate in its consideration did not adopt any type of ban on alluvial valleys. The Senate adopted a provision in section 515(b)(10)(E) which is the reclamation standards section which requires the mine operator to "preserve throughout the mining and reclamation process the hydrologic integrity of alluvial valley floors in the arid and the semiarid areas of the country." The conferees, given these two contradictory provisions of the House and the Senate, decided to adopt the language of 510(b)(5) which is a ban on surface mining in alluvial valleys if it would have a substantial adverse effect on farming or ranching operations.

Mr. President, this is very difficult to understand. It would be very confusing if enacted.

The Senate has several options in dealing with this issue. First, it can strike the ban on alluvial valleys located in 510(b)(5) thus returning to the earlier Senate position of addressing alluvial valleys only in the reclamation standards section which, in essence, precludes surface mining only if the coal operation cannot meet the reclamation standards of preserving the hydrologic integrity of that alluvial valley. Second, the Senate could adopt the suggestion of the Geological Survey and amend the definition of alluvial valley to insert "flood plains and channels underlain by" and also "perennial" before streams in that definition which will tighten and reduce the scope of the application of this alluvial ban. If neither of these options are adopted, then the Senate will move to conference with the House, which is expected to adopt the previous House ban on mining in alluvial valleys, and the issue at that juncture will not be the same as it was in the previous conference—whether to adopt a ban or whether to adopt the Senate approach of only limiting it to the reclamation standards—but the options will be whether to adopt the House total ban approach or whether to adopt the partial ban approach of the Senate. The ban philosophy will no longer be the question—it will only be a matter of the extent or the application of the ban.

So, Mr. President, I support the amendment of the distinguished Senator from Wyoming. It will clarify the intent, and certainly make it possible to carry through with what I think is desirable in this legislation. It will give us an opportunity to have language that can be understood.

Mr. HANSEN. Mr. President, there are some graphs that have been prepared by the U.S. Geological Survey that I think Senators might find interesting in order to understand better the purpose of my amendment. They are on easels at the back of the Chamber, and there are people there who can explain to Senators what is portrayed by those charts.

We asked the U.S. Geological Survey and the Bureau of Mines, after they had had an opportunity to read section 510 and to understand the impact that the ban that is imposed in section 510 might have on possible coal production, just what the significance of this section is.

In its broadest possible application, I can say that a very significant amount of the coal that is found in the West would be affected. We portray that coal in two respects: First, the amount of coal that could be mined with removal of up to 200 feet of overburden. That is shown by one color used on the charts.

We also display the amount of coal that would be affected if up to 400 feet of overburden were to be removed. I think that before Senators reject this amendment, or before they vote for it, they might like to have the benefit of learning for themselves, firsthand, what a determination by the Federal agencies, the U.S. Geological Survey and the Bureau of Mines, interprets the language to mean, and the extent of the prohibition and restriction that would be placed upon the federally owned coal.

It is not an insignificant amount. I said earlier today that there is throughout the West a characteristic checkerboard pattern of the landownership. This prohibition, this ban, which was not contained in the Senate bill last year, but which was added by the Senate-House conferees when we were trying to resolve the differences between the two bills last December, was added.

Senators should know that not only does this bill contain a provision reserving to the owner of the surface the right to deny access to the coal under lands the surface only of which he owns, but there would be superimposed upon that right the further exclusion of all coal contained in the alluvial valley floors insofar as it might have a significant effect upon the ranching and farming operations contained in the area.

As a rancher myself, I know perfectly well in its broadest interpretation one would have to conclude that any time you disturb the surface of an ongoing ranching or farming operation it has an impact. It would not have to have a very big impact to have a significant impact.

But the trouble with section 510 is that before a coal company is even given an opportunity to show what can be done through reclamation—and that is the main thrust of this bill all the way through to insure that there will be reclamation of the coal lands—before that operator has a chance to show, to demonstrate, what can be done through reclamation, this section says if it has a significant impact despite the probability of making a complete restoration of the alluvial valley floor, one cannot mine it.

Now, I know that Senators have been persuaded by figures that have been bandied around, they have been encouraged to believe that the surface owner protection being restricted as it is to the extent that a surface owner cannot receive more than the appraised value of his land, more than the appraised value of the improvements on that land, that will be directly affected or occupied or taken over by a mining operation and, third, by the diminution in income that would result from the impact of that mining operation on his ranching operation, only to the extent of those three amounts, plus up to $100 per acre if the Secretary of the Interior, in his discretion, believes that the compensation otherwise would be inadequate, only to that extent can the surface owner receive any compensation for a disruption

of his ranching activities in exchange for giving his consent or withholding it.

It has been my contention that the typical rancher in the West, given so little in the way of recompense for permitting the coal to be removed under the surface of his lands, will be inclined to say, "no."

So my concern, Mr. President, is that we are going to pass a bill, or we likely will be passing a bill, unless some of these amendments are passed, which, I think, will insure a denial to the Government of the United States of the right to mine its coal.

What does that mean? It means that by all judgment that has been espoused by the administration, by Congress, and by other people in and out of Government, the ability of the United States to move toward energy sufficiency, self-sufficiency, will have been effectively blunted. Coal is the only readily accessible resource we have that can be used now. We have the technology to use it, we can make use of it, and it can certainly minimize or lessen our dependency upon the foreign-produced and imported petroleum.

But if we pass the bill as we have it now, it is my prediction that there will be much less coal made available than most Senators believe will be available.

This is an example, Mr. President, of the point I am trying to make, and that is that section 510, despite every other consideration, despite what can be done in the way of reclamation, just says, "No, you cannot mine it. It cannot be mined."

I appeal to my colleagues to understand what their actions can mean to this country if this section 510 is left in. It will help insure that a supply already greatly restricted will be made even less than it is now.

Mr. JOHNSTON. Mr. President, I send to the desk an amendment No. 79 by Mr. METCALF which I offer as——

The PRESIDING OFFICER (Mr. BROOKE). The amendment is not in order. There is already an amendment before the body. The question is on agreeing to the amendment submitted by the Senator from Wyoming.

Mr. JOHNSTON. There cannot be a substitute offered?

The PRESIDING OFFICER. It is an amendment to strike, and the Senator's amendment cannot be substituted for the motion to strike.

Mr. HANSEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is my good friend, the distinguished Senator from Louisiana, trying to kill my amendment?

Mr. JOHNSTON. Mr. President, we are trying to improve the amendment considerably.

Mr. METCALF. Mr. President, may I be heard on the amendment of the Senator from Wyoming, without holding in abeyance an amendment that I have submitted or that I have propounded and which has been submitted for me by the Senator from Louisiana? Both the Senator from Wyoming and I met with the U.S. Geological Survey.

Mr. HANSEN. And Bureau of Mines.

Mr. METCALF. And Bureau of Mines.

They presented us the maps that are in the rear of the Chamber. They told us about what alluvial valley floors would be. They told us about what creeks and what rivers and what canyons would be affected. They continued to talk about croplands and haylands and pastures, and their language was consistently that language of croplands and haylands and pastures rather than alluvial valley floors.

We talked about, well, "Is this an alluvial valley floor," and they said, "Well, that is a geological formation." It is very difficult to get definitive answers from some of these scientists who tried to testify on legislation.

But the amendment that I have prepared was an amendment that was presented to the Senator from Wyoming to use, instead of alluvial valley floors, the language that the U.S. Geological Survey and the language that the Bureau of Mines used in defining some of these areas in the Powder River basin and, assuming, that that is a typical area, some of the areas elsewhere.

Now, I am convinced that we should give the ranching operations protection. Some of the time we are going to cut aquifers, we are going to cut water off from pasture land—we are going to cut the water off from pasture land. We are going to cut water off upstream, and somebody with water rights downstream is going to have a claim for underground water or pasture or irrigation water.

On the other hand, certainly none of us wants to cut off mining in all of the little mountain valleys all over the West. So I have prepared the amendment to the alluvial valley floors, that was submitted for me by the Senator from Louisiana, and that was intended to use the same language as the U.S. Geological Survey and the Bureau of Mines used in our discussions.

Now, the Senator from Wyoming will recall that the administration completely misunderstood the purpose of our amendment. They said that this amendment would absolutely prevent mining on alluvial valley floors. It was pointed out that in section 510(5) we were talking about the prevention of only substantial adverse effects on farming and ranching; and if the Senator from Wyoming will recall, in the conference committee we talked about the same thing explicitly stating that we did not want to prevent mining absolutely. We only wanted to prevent significant adverse effects on the farming and ranching operations on the alluvial valley floors.

So in the committee, and this is in italics on page 70 of the bill, we put in an amendment:

> On farming or ranching operations being conducted on alluvial valley floors where such valley floors are significant——

And "significant" is an important word—

> significant to such operations.

But during the course of our discussion with the Bureau of Mines and the Geological Survey, they talked about pasture land, they talked about irrigated land, so I decided that I would submit an amendment that would clarify what we really wanted to protect, which is the farming and ranching operations. That is the genesis of the amendment that I am trying to submit.

Now, if the Chair says that it is out of order——

The PRESIDING OFFICER. Is this the same amendment which was offered by the Senator from Louisiana?

Mr. METCALF. Yes, this is the amendment that I submitted and the Senator from Louisiana offered it on my behalf.

The PRESIDING OFFICER. Very well. Then the amendment which the Senator from Louisiana offered on behalf of the Senator from Montana is in order.

Having read that amendment, while a motion to strike certain language in the bill is pending, an amendment to the language proposed to be stricken out is not a substitute for such motion but is in order as a perfecting amendment and has precedence over the motion to strike.

So the amendment is in order.

The clerk will state the amendment.

AMENDMENT NO. 79 (AS MODIFIED)

The assistant legislative clerk read as follows:

> The Senator from Montana (Mr. METCALF) proposes an amendment No. 79, as modified. The amendment is as follows:
>
> On page 70, strike lines 1 through 4, and insert the following: "on croplands, haylands, or pastures overlying alluvial valley floors where such croplands, haylands, or pastures are significant to the practice of farming or ranching operations".

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. Mr. President, the whole proposition is that it was alleged and debated in committee, as the Senator from Wyoming knows, that the definition of "alluvial valley floors," which we adopted in the conference, was an ambiguous phrase. When we met with the Geological Survey and with the Bureau of Mines, they continued to talk about these lands as croplands, although certain lands on the map were designated as hay lands or pasture lands. As a result we sat there and I consulted with the Senator from Wyoming about this amendment and we tried to clarify our intention, which is protecting farming and ranching operations, irrigation operations, and water, from the adverse effects of coal surface mining.

Mr. HANSEN. Will the Senator yield?

Mr. METCALF. Of course, I yield.

Mr. HANSEN. Mr. President, let me say that there is no doubt at all in the mind of the Senator from Wyoming that this is an improvement over the language in the bill.

I would point out, though, that this still will deny a rancher the right to make the initial determination that I think he should have, whether he wants to permit mining on his ranch or not.

I just say to my good friend from Montana that I saw an article that was published in the Montana Farmers' Stockmen by a Mr. Burton B. Brewster from Birney. I gather from the thrust of the article, he owns not only the surface but the minerals as well. Would my good friend from Montana know if that might be the case or not?

Mr. METCALF. Well, I do not know. I

have known Mr. Brewster for a long time and he may be the owner of both the surface and the subsurface estates.

Mr. HANSEN. Yes.

Mr. METCALF. In which case this amendment would not apply.

Mr. HANSEN. Yes, I was just going to make the point——

Mr. METCALF. But let us assume it would apply to him. Will the Senator make his point?

Mr. HANSEN. I was going to make the point that he says that if we could strike the prohibition, or the restrictions, rather, on what may be paid by way of consideration to a farmer or rancher by an energy company, if those could be stricken, then Mr. Brewster makes the point that a 20-cent-per-ton royalty would yield a very significant amount of money to him which would permit him and other ranchers similarly situated to improve their ranching operations very substantially.

His contention was that under that set of conditions he could anticipate having a ranch after the operation had been completed with the productive capability to do even better than it now does, plus the fact that he would have some income to do things that he presently cannot do.

I say to my friend from Montana that what this language would still do, as I understand it, is to deny such a rancher as Mr. Brewster, if he were to fit the other conditions which would bring him under this section, the opportunity to say whether he desired to have it mined or whether he did not, if it has a substantial effect upon the pasture, the hay lands, or the croplands. Then, if I understand the amendment, it would rule that out. Am I correct?

Mr. METCALF. That is correct.

Mr. HANSEN. I thank my colleague.

Mr. METCALF. Let me say that a temporary enrichment of the rancher for a destruction of his operation for 20 or 30 years, I say it would be in the rancher's own interest much more important to him than the coal underlying the land.

If the Senator from Wyoming has ever driven from Helena, Mont., to Butte, Mont., and has seen what happened when the dredgers moved up there and left rock piles there where it will take 500 years for the land to recover, the Senator can see what we are trying to say at this time, when we have agricultural needs just the same as we have energy needs. We are trying to save the farming and ranching operation.

Mr. HANSEN. Will the Senator yield on that point?

Mr. METCALF. Of course.

Mr. HANSEN. May I say, Mr. President, that I have visited many places in Montana, including the particular section of that great State to which the Senator has just referred. I could not agree with him more.

I do make the observation, though, that this law, unlike the absence of laws that characterized that period when gold was being recovered in the State of Montana, in this bill effectively insures that that result shall not obtain.

Land must be reclaimable. The operator who proposes to remove the coal has to demonstrate to the satisfaction of the Federal as well as the State authorities that it will be reclaimed before mining can take place.

I, too, would not hope to have a recurrence of that dredging operation that does leave land pretty well desolated, as the Senator and I agree.

Mr. METCALF. I know the Senator from Wyoming has been as concerned as I about the despoiling and the long-term destruction of land from mining, whether it is by subsidence or by dredging operations or by other mining operations.

Mr. McCLURE. Will the Senator from Montana yield for a question?

Mr. METCALF. I will yield if I have satisfied the Senator from Wyoming.

Mr. HANSEN. May I say that the Senator from Wyoming has never been anything except satisfied with the sincerity and the fairness of the Senator from Montana.

We may not agree upon the thrust of a particular bill or an amendment, but I have never been at variance with him at all, as I hope he knows, on these other points.

Mr. METCALF. I would be delighted to yield to my friend from Idaho, who made such an outstanding contribution to this bill.

Mr. McCLURE. I thank the Senator from Montana, both for the comment and for yielding for a question.

I would understand that the amendment which has been offered by the Senator from Wyoming was intended to at least partially solve the ambiguity of the term "alluvial valley floor." Is that correct? That is, that the term alluvial valley floor is an ambiguous term that covers all kinds of water-deposited rubble, and might include very large portions of the Western United States under a rather loose definition of what an alluvial valley floor might be. I believe the Senator is intending to narrow the definition, if I understand him correctly.

Mr. METCALF. I do not know whether I am intending to narrow the definition or not. I am intending to use the words that the Geological Survey and the Bureau of Mines use for the precision of trying to define what we want to protect. That is croplands, haylands, and pastures.

Mr. McCLURE. If I understand the Senator correctly, it would not extend to a ban on mining on drylands that happen to lie upon the water deposit, a rubble that was deposited by water.

Mr. METCALF. Unless there was a water hole or subirrigation was involved or part of a pasture land, something of that sort. I am trying to get away from what the Senator from Wyoming is criticising; that every little creekbed will be an alluvial valley floor, or anything that any geological formation 1,000 years old will be considered an alluvial valley floor. We are trying to protect the ranching and farming operations ongoing in the West at this time.

Mr. McCLURE. I understand the Senator's purpose. I am trying to get some definition of how it applies and what the distinction is so that at least the record will show what it is intended to be if this language is adopted.

Mr. METCALF. I think a rancher knows what a cropland is, what a pasture is, and what a hayland is.

Mr. McCLURE. I am sure the rancher does, but I am not sure the bureaucrats do. It is the bureaucrats who will interpret the law, not the ranchers.

Mr. METCALF. The bureaucrats have given us this definition. The U.S. Geological Survey and the Bureau of Mines are the ones who came up and met with the Senator from Wyoming and myself and demonstrated that they did not understand what we wanted. They thought we were trying to prevent things. But we ended up putting into this bill their own suggested language.

Mr. McCLURE. Let me rephrase my question. What I am trying to do is get for the record what it was they meant by the language. I am not sure I know what they meant by this language. I am assuming that the difficulty arose because of the criticisms that were mentioned by the Senator from Wyoming, that an alluvial deposit is any loose mineral deposit that has been laid down by the action of water, including that which was laid down during the Glacial Age. That broad definition is the thing that causes the difficulty when the Geological Survey was being asked "What does an alluvial valley floor mean?" They said it could mean great areas of the West. I assume from that came their definition that the Senator referred to in talking about croplands, haylands, or pastures. It would mean that not all water deposits or loose mineral deposits would then be within the definition of an alluvial valley floor. Is that correct?

Mr. METCALF. That is correct.

But the very maps that are on display on the minority side are not maps of alluvial valley floors. They show croplands, haylands, and pastures, the lands we want to protect.

That is the land that the so-called bureaucrats we are talking about described to us. That is the land on their maps and the definition in the bill is their definition.

Mr. McCLURE. Will the Senator from Montana tell me if all the haylands, croplands, and pastures on these maps overlie alluvial valley floors?

Mr. METCALF. I am proposing to change the definition to take care of it.

Mr. McCLURE. No, the Senator is not, I say most respectfully. It says these croplands, haylands, and pastures must overlie alluvial valley floors.

Mr. METCALF. No, we do not say that at all. We say croplands, haylands, or pastures that are significant to the practice of farming and ranching operations.

Mr. McCLURE. It seems to me, and I will read from amendment No. 78, at least the print in front of me starting on line No. 2, the language which would be inserted says, "croplands, haylands, or pastures overlying alluvial valley floors".

Mr. METCALF. That is correct. Croplands, haylands, or pastures overlying alluvial valley floors and at the same time

where they are significant to the practice of farming or ranching operations. There may be lands that do not overlie alluvial valley floors that are significant. There may be lands that do overlie alluvial valley floors that have no significance at all to farming or ranching.

Mr. McCLURE. Let me ask this question, if I may, so I can get some definition: Do the maps to which the Senator from Montana makes reference as referring to pastures, croplands, and haylands distinguish which of those overlie alluvial valley floors and which do not?

Mr. METCALF. On the map?

Mr. McCLURE. On the map.

Mr. METCALF. No, they do not.

Mr. McCLURE. So the maps are of no real assistance to us in determining which are included and which are excluded?

Mr. METCALF. We are concerned with the lands which overlie alluvial valley floors and which make a significant contribution to the practice of farming. That is important. If they overlie alluvial valley floors and do not make a significant contribution to the practice of farming or ranching operations, it does not make any difference whether or not they overlie such lands.

Mr. McCLURE. I would assume the maps would not try to determine whether they are significant or not to the ranching operation.

I am not arguing or quarreling with the Senator from Montana at all. I just want to know what the terms mean. That is what started this whole discussion. We did not know what an alluvial valley floor was. Now I am trying to find out if we know what croplands, haylands, or pastures overlying an alluvial valley floor may be. The Senator from Montana has referred to some maps and then says, "But the maps do not determine whether they are pertinent to the discussion."

I am concerned that we know, by legislative history, what was intended by the enactment of the amendment that we are discussing. I have no quarrel with the thrust of the Senator's amendment. I support that effort to exclude from that exclusion that is in the original bill all of the alluvial valley floors. But I assume that what we are talking about is a water-laid rubble deposit upon which there are now croplands, haylands, or pastures. Is that correct?

Mr. METCALF. That is correct.

Mr. McCLURE. I assume I know what cropland is. I assume that is land that is cultivated from which crops are removed by harvesting. Would that be a suitable definition?

Mr. METCALF. Yes, I would think so.

Mr. McCLURE. And hayland would be land upon which hay grows upon which the hay is harvested, not just by grazing but by some mechanical means. It is removed and stored. Is that correct?

Mr. METCALF. Yes, that is correct.

Mr. McCLURE. I am a little less certain that I understand what would be meant by the term "pastures."

Mr. METCALF. Pastures, of course, as the Senator and I know, in the West are considered lands in the lower valleys and away from the land under Bureau of Land Management or away from the national forests which probably is subirrigated.

Mr. McCLURE. Is it land that has enough water on it to sustain the vegetative growth during the dry period as distinguished from that which is more of a dryland?

Mr. METCALF. That is what they told us.

Mr. HANSEN. Will the Senator yield at that point?

Mr. METCALF. I would be delighted to yield.

Mr. HANSEN. If I recall correctly, I think, out of fairness to the U.S. Geological Survey and the narrow context in which they use the term "pasture," they referred rather specifically to an area which had been cultivated and upon which pasture seed of some kind had been sown which resulted in that particular variety or varieties of grass or grasses growing. It was not necessarily land that might be irrigated or subirrigated. It oftentimes, I think, would be dryland.

I would have to say, if I may further take this opportunity, on behalf of the Senator from Montana, that the term "pasture" seems to me to be one that does not have a wide, specific, understood connotation as these other terms may have.

Mr. METCALF. But in the maps we saw last week they identified the various lands as croplands, pasture lands.

Mr. HANSEN. I do not recall. Yes, I think——

Mr. METCALF. The Senator did not bring the map in from the Bureau of Mines.

Mr. HANSEN. We do have a map. As a matter of fact, I think one of the maps did show, perhaps on a blown-up scale—I do not recall at the moment if it is the one on our left as we face them—where certain kinds of ranching operations occurred. Am I right

Mr. METCALF. Yes.

Mr. HANSEN. So far as the entire area is concerned, I do not think that was the case.

I make the further point that with respect to the term "pasture land," at least insofar as general usage goes, we refer to pasture land in our part of the country as land that has not been cultivated generally.

Mr. METCALF. I think we referred to it in that way, but we referred to land that is subirrigated or taken care of or reused for year-round maintenance of our cattle operations, as opposed to ordinary grazing lands where cows graze in the early spring, and then we move them into the Forest Service or the BLM.

Mr. HANSEN. Let me make a further point. In my particular area of Wyoming, we refer to pasture land, as distinguished from meadow land or hay land and subirrigated pasture.

Mr. METCALF. I see that the Senator is concerned about "pasture." Would he agree to the amendment if we struck the word "pasture"?

Mr. HANSEN. I think that would be helpful.

Let me say this: I have no illusions about my success in trying to strike section 510(b)(5). So I think anything would be an improvement. It would be improved if we were to restrict it as the Senator has just suggested.

Mr. METCALF. I am trying to find something that is definitive and gives us an unambiguous understanding of what we are after in trying to protect the land to which we have referred as alluvial valley floors.

Mr. McCLURE. That is the only reason I asked the question—so that when this is all done, whatever we have adopted, we at least understand what we meant by it.

The Senator from Wyoming refers to pasture land which has been cultivated and upon which pasture type grasses have been planted.

Mr. METCALF. I would not agree that that is the only definition.

Mr. McCLURE. We have some ranch improved areas in my State in which they have cultivated thousands of acres of ranchland and planted crested wheat grass. I am not sure we can say it has always been successful.

Hr. HANSEN. We have a sagebrush spraying program in the West. I suspect that it is in existence in many States; I know it is in Wyoming. Nothing is done to change the variety or the nature of the vegetative cover, except by spraying to kill the sagebrush, the various kinds of sagebrush we have. Artemisia is one. I sat up last night learning that.

In that respect, I think one could say that something has been done to improve the pasture land. Yet, in the strict sense of the term that the U.S. Geological Survey used it, they did not talk about—or at least I did not hear them say anything about—what determination they would place upon pasture land, as I use the term "pasture land," which was covered by sagebrush and which may have been sprayed.

I raise that as an additional query to ask; Will this be in or out?

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. FANNIN. I say to the distinguished Senator from Montana that, so far as I can see, what the Geological Survey has recommended differs widely with what we are considering. When we say croplands and haylands, it comes to my mind that we could be including lands that were seeded from planes.

Mr. METCALF. Probably. Absolutely.

Mr. FANNIN. Here we have vast areas, even on mountain sides, that are seeded, pelleted—the seed surrounded by a fertilizer. What would be the case in that regard? In other words, if you included land that was as widespread as that, you would be taking in practically every piece of land in the State.

Mr. METCALF. I must confess that I am not sure. It would have to be considered on a case-by-case basis. If it were important and significant to the practice of the farming operation of that ranch and if it were a basis for getting leases on the BLM and the other Federal lands, I think it would be pasture land.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. McCLURE. The Senator knows that in Arizona, cows are bred with wide mouths, and they graze at 40 miles an hour to get enough feed in some of that land. That is pasture land.

Mr. METCALF. Not only in Arizona does that happen.

Mr. FANNIN. I will explain to the Senator my understanding of the Geological Survey's definition as it appears on page 145. It would make this change in paragraph (27), line 6:

Alluvial valley floors means—

Then they insert the words "flood plains and channels underlain by."

Then it continues—

the unconsolidated stream laid deposits holding——

Then would appear the word "perennial," and it continues—

streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities;

That is what I understand the Geological Survey recommended.

Mr. METCALF. That is their definition. When we called them and talked to them and met with the opposition and it was stated that that was an ambiguous phrase, I said we will talk about croplands, haylands, and pasture lands.

Let me ask the question again: If we knock out "pasture lands," will the Senator agree to the amendment?

Mr. FANNIN. It is the Senator from Wyoming's amendment, and it is up to him as to what he would like to do.

Taking out "pasture lands" would assist in clarifying it. But I still say that a great deal of misunderstanding could come about where it must be considered whether croplands or haylands are significant to a farming operation. How is significant determined? That is a determination that would be difficult to make.

Mr. METCALF. The Senator knows that we cannot specifically define in any legislation how significant, what the significance is, and so forth.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METCALF. I am delighted to yield.

Mr. McCLURE. Mr. President, I have one fundamental difficulty. I think that if we were to take out the term "pastureland," we would have gotten to the point where we at least understood what we were talking about with a great deal more precision. But the difficulty I really have, I suppose, is that it seems to me that the fundamental thrust of the bill, even with this amendment—and it is a very constructive amendment—still assumes that no reclamation is possible in those areas.

I have no coal in my State, so I am not talking about that; but I do know of one area in which mining operations took place in which the pastureland was restored. The surface is as good now as it was before the mining took place.

It is beautiful pastureland, subirrigated pastureland, and it is very productive. Most people who drive through the valley would have no idea at all that that valley had ever been mined.

It seems to me that if we were to adopt this provision, even with the amendment suggested by the distinguished Senator from Montana, we would be assuming that it is absolutely impossible, under any circumstances, to reclaim the land to useful cropland or hayland. I think that assumption is false.

Mr. METCALF. That assumption is wrong, perhaps. They have been working at Colstrip reclaiming the land that was stripped by the Northern Pacific a couple of decades ago and they have quite a bit of forage out there, but they still have not fed a cow. They have been on it for what, 7 years, did they tell us, I ask the Senator from Wyoming, when we were out there?

Mr. HANSEN. I believe the Senator is correct.

Mr. METCALF. Well, that was land that was destroyed. That would be orphan land and so forth. That was not land that was reclaimed immediately after it was taken up.

Anyway, I did not realize that I was going to run into all this opposition as far as pastures are concerned. If I strike the word "pasture" from the amendment, can I get an agreement from the minority that we talk about croplands or haylands and limit this area to that?

Mr. HANSEN. Mr. President, responding to the query posed by the Senator from Montana, let me say that that would certainly make the amendment more acceptable and, as a pragmatist, which I hope at times I might be, I am inclined to accept the amendment. I so indicate, if we can use only the words "croplands" and "haylands."

Mr. METCALF. We shall change it to "on croplands or haylands overlying alluvial valley floors, where such croplands or haylands are significant to the practice of farming or ranching operations."

Mr. HANSEN. Yes.

Let me say for the record, Mr. President, that I think there is still real justification for deleting section 510(b) subsection 5. I think there is little likelihood that I can prevail on that. In a spirit of trying to get something done to improve the bill, I am happy to accept the amendment.

The PRESIDING OFFICER. The question is on the amendment——

Mr. METCALF. Mr. President, I wish to modify my amendment——

Mr. HANSEN. As modified.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Montana as modified by the Senator from Wyoming, as modified.

The amendment, as modified, was agreed to as follows:

On page 70, strike lines 1 through 4, and insert the following: "on croplands or haylands overlying alluvial valley floors where such croplands, or haylands are significant to the practice of farming or ranching operations."'

Mr. METCALF. Mr. President, the question of the extent to which mining should be permitted on alluvial valley floors has become one of the more emotionally debated provisions of S. 7. One reason for this is the many confusing or misleading interpretations about the meaning of these provisions. There has also been considerable confusion between provisions of the bill designed to protect hydrology and provisions designed to protect those small areas in the west used as subirrigated or flood irrigated hay meadows or croplands. These confusions lie principally in three categories: First, the actual and intended definition of an alluvial valley floor, and therefore their extent; second, the degree to which these lands are underlain by surface minable coal; and third, the extent to which a limitation on mining on these lands will affect total coal production.

In the West, these alluvial valley floors contain the hay meadows and croplands vital to continuation of farming or ranching. Although under the provisions of S. 7 mined land will ultimately be restored and reclaimed, a mining operation on arid western lands would interrupt and preclude for a period of at least 20 years, any farming or ranching operation on that land.

At a time when we are increasingly concerned about potential food shortages as well as an energy crunch, it is imperative that this bill provide standards for striking a balance between the satisfaction of these two critical needs. This is a public policy issue which Congress should consider. If the choice is left to individual landowners, it seems likely that the high and short term economic return from coal mining will inevitably override the long term, but equally important use of these lands for food and fiber production.

Mr. President, I strongly urge my colleagues to adopt the provisions of S. 7, as amended by my strengthening and limiting amendment with regard to the protection of croplands and haylands needed to maintain farming and ranching operations.

Mr. President, I ask unanimous consent to have printed in the RECORD a report from the Powder River Basin Resource Council of the amount of land that would be affected if this amendment goes into effect.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SENATE STRIP MINE BILL—IMPACT ON WESTERN AGRICULTURAL LANDS

The Senate strip mine bill (S. 7), as it is coming to the Floor, has been seriously weakened in the Interior Committee with respect to protection of irrigated lands in the West which are critical to the survival of agriculture in those states.

These irrigated lands sustain hay and other winter forage which are essential to the livestock industry in semi-arid and arid areas.

The Senate Interior Committee has further weakened the vetoed strip mine bill in Sections 510(b)(5) and 515(b)(10) (D) and (E). These sections not only allow strip mining in irrigated lands of the West, but, do not even provide for adequate standards of protection for water resources and agriculture.

Senator Hansen, who supported these weakening amendments, has further confused the issue by claiming in the Additional Views to S. 7 that "millions of acres" will be affected by the existing weakened language in the bill.

Senator Hansen's figures directly contradict the official statistics on irrigated acreage in Wyoming, as published by the State Engineer's Office.

According to the State Engineer's Office, there are only 134,582 acres classified as "irrigated" in coal-bearing Sheridan, Johnson and Campbell counties. These irrigated acres account for only 1.83% of the total tri-county acreage.

In Montana, there are only 3,000 irrigated acres over strippable coal, according to the State Department of Natural Resources and Conservation.

Irrigated lands constitute a tiny fraction of total acreage in Wyoming and Montana. These irrigated lands are absolutely essential to the survival of agriculture in this region, and there is no reason that justifies strip mining these valuable and productive agricultural lands.

MONTANA—FORT UNION COAL FORMATION OF THE POWDER RIVER BASIN

Total acreage	8,280,000
Presently irrigated acreage	100,000
Irrigated acreage over strippable coal	3,000
Percent irrigated acreage over strippable coal	3.00
Percent irrigated over coal out of total acres	.04

Source: Montana Department of Natural Resources and Conservation, unpublished report, 1975.

	Wyoming counties		
	Sheridan	Johnson	Campbell
Total acreage	1,620,480	2,674,560	[1] 3,043,840
Irrigated acreage	79,179	50,172	[2] 5,231
Percent irrigated	4.89	1.88	0.17
Total acres in the 3 counties			7,338,880
Total acres irrigated in the 3 counties			134,582
Percent irrigated in the 3 counties			1.83

[1] Wyoming framework water plan, State Engineer's Office, May 1973; p. 13, table 1-5.
[2] Wyoming framework planning program report, No. 7, State engineer's office, January 1971; p. 14, table II.

Source: Powder River Basin Resource Council, Sheridan Wyo.

The PRESIDING OFFICER. Does the Senator from Wyoming withdraw his amendment?

Mr. HANSEN. The one that was just agreed to, Mr. President.

The PRESIDING OFFICER. The amendment to strike.

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The amendment of the Senator from Wyoming was amended by the amendment of the Senator from Montana. Now the question is——

Mr. HANSEN. Mr. President, if I may respond, let me say that it was my understanding that the amendment by the Senator from Wyoming had been modified so as to leave that section in the bill, but to use the terms "croplands" and "haylands" in their proper context in order to restrict mining operations on less land than otherwise would have resulted.

The PRESIDING OFFICER. The amendment of the Senator from Montana added the language which was proposed to be striken by the amendment of the Senator from Wyoming. We shall have to act on the amendment of the Senator from Wyoming to strike.

Mr. HANSEN. I withdraw that portion of my amendment which would have the effect of striking.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho will state it.

Mr. McCLURE. If the Senator from Wyoming withdraws his amendment, is not the amendment of the Senator from Montana withdrawn also, because it was an amendment to the amendment of the Senator from——

The PRESIDING OFFICER. The amendment of the Senator from Montana was an amendment to the language which the Senator from Wyoming sought to strike.

Mr. HANSEN. I withdrew only that portion of my amendment which struck the section.

Mr. McCLURE. I thank the Chair.

Mr. METCALF. And the Senator substituted my amendment.

Mr. HANSEN. Yes.

Mr. BARTLETT. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follow:

On page 163, beginning with line 4, and through page 169, line 16, strike all of Section 716.

Mr. BARTLETT. Mr. President, this amendment has the effect of striking the entire section 716, the section that deals with surface owner consent.

Mr. President, this particular provision concerns itself with the Federal coal which is overlain by privately owned land. I wish to point out that the coal which we are allowing the surface owners to veto does not belong to the surface owner, but does belong to all the people of this Nation.

Under existing law, the surface owner has no right to the Federal coal under his surface. At the time the surface owner acquired ownership of the surface, he knew he did not also own the mineral rights. Bestowing the rights of this section to the landowners is a raid on the U.S. Treasury at the expense of all the people of the United States, because it is giving the surface owner something that belongs to everyone.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays have been asked for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, this right allows the surface owner to capitalize on our Nation't energy shortages by providing him a windfall and by allowing him to hold up the production of coal for any amount he can negotiate. That cost will be reflected in all our utility rates.

Section 716 gives a person, just selected by chance because he happens to be the surface owner, the right to mine or not to mine, just following any whim that he might have. The surface owner, of course, normally has little, if any, knowledge of coal or the reclamation of coal, so his decision is not based on any knowledge of reclamation or the kind of reclamation that should take place. This gives the right to the surface owner to veto production of coal, and, of course, it has nothing to do with the kind of reclamation or the approach to reclamation that might be followed by the lessee.

My amendment merely preserves existing law and practice. Surface owners have never litigated exactly what their rights are. Thus the coal companies today do give them some monetary reward just because of the desire and need for fast development.

Mr. President, in the case of petroleum production, quite often, the surface ownership is separate from the minerals, and each has rights—the mineral owner who leases to an oil producer and the surface owner, who has a right to do with his land as he sees fit.

In this case, normally, if the lessee pursues his rights and drills a well and produces that well, then the surface owner is entitled to damages. The same is true in the case of the dichotomy of ownership in coal.

Coal can be produced, and naturally causes damage to the surface owner. The surface owner would thus be recompensed for the amount of that damage, and the amount of the damage, of course, would depend on the amount of surface that was mined, the length of time it was disrupted, and the condition of the surface at the end of that time, even though there was a requirement that it be reclaimed to a use at least as high as prior to the mining.

Government control of this willing seller-buyer relationship will, in my opinion, be detrimental to everyone: the consumer, the coal industry, the utility industry, and most of all, to our Nation.

Mr. President, I think this kind of provision, which could be in many cases a ripoff to the person who happens to own the land, is certainly not in the interest of proper development of our natural resources in the interest of the citizens of this Nation. At a time when we are in dire straits as far as sufficient energy is concerned, at a time when virtually everyone who is advancing a plan of energy sufficiency or independence is calling upon coal production to double within 10 years, by 1985, if this provision for surface owner consent exists in the law, as it would in the bill as now written, there would, to my mind, be no opportunity at all for us to achieve a doubling of coal production within 10 years. Much of that doubling must come from strip mining, and this provision would prevent that from happening.

Mr. FANNIN. Mr. President, I support the amendment of the distinguished Senator from Oklahoma. I feel he has properly covered exactly what is involved as far as the rights of the American people to their ownership of the subsurface rights is concerned. As he explained, it was intended, and the owners of the surface rights have that understanding and have taken that action accordingly, knowing that the subsurface rights did belong and do belong to the U.S. Government, to all the people.

Under the law as it is today, they have the right to negotiate so that the surface owner can be protected and is protected in his rights to what is covered by his

damages, what is covered by his loss of utilization of that land, and that is under present law, so that we would not be changing that particular stipulation.

I feel that if we should adopt this amendment, it would give the Government and the people of this country greater opportunity to develop their resources. Under the present law, for strip mining, which is certainly damaging to the surface owner, because he has certain requirements that he must meet, he is compensated on a basis that I do not consider fair and equitable—not as fair and equitable as what is available to him under present law.

So I support the amendment of the distinguished Senator from Oklahoma, and trust that it will be approved.

Mr. METCALF. Mr. President, this business of the surface owner's rights has probably been the thorniest problem that we have met in considering this whole strip mining bill. This was the subject of the Mansfield amendment that we considered earlier. For hours and hours, in the conference last year, we debated back and forth about surface owner rights. I had a proxy from the Senator from Colorado, for example, during the consideration and markup of this bill, and he said that I was authorized to vote in his behalf for any amendment, except that he believed that the surface owner proposition in this bill should not be changed to the extent of a period, a semicolon, or a comma.

The Senator from Louisiana, who was here to handle that business a few minutes ago, told the committee that he was against any windfall, that he was against any lockup, but finally in conference he too agreed to this compromise agreement.

This is the agreement that we worked out after hours and hours of conference discussion, after we had discussed the matter of hours in the committee. I do not think it is completely satisfactory. My colleague from Montana, Representative MELCHER, was not completely satisfied.

I voted on every side of this issue in order to get a bill. Senator MANSFIELD submitted his amendment. But this is the key to getting a surface mining bill this year—agreeing to the surface owner consent compromise that was worked out between the Senate and the House of Representatives in conference last year. I think anything that violates that compromise of last year might very well destroy the opportunity to get a bill this year.

Probably some of the members of the minority who are opposed to any legislation would like to change the surface mining owner consent provision and get some other change, but I would hope that after hours of discussion in committee and after hours of discussion in conference, that this proposal in the legislation before the Senate today would be supported by a majority of the Senate, so that we can go to conference on something that we agreed to the last time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would like to say very briefly that this provision in the bill which my amendment would remove is one kind of ban on mining that is contained in the bill. There are several others as well.

When one considers that the purpose of the bill is to provide for good, sound reclamation; and then when we look more deeply into the bill and see that it goes far beyond that, to ban much surface mining, to favor underground mining, to reduce the amount of coal that is currently surface mined by approximately 141 million tons—almost one-half of all that is surface mined—and then when we think about the people on the east coast of the United States, who do not want any exploration to take place on the Outer Continental Shelf, it seems that everyone wants to export pollution, or any threat to the environment.

If that is done thoroughly, and to a great extent, then, of course, we are going to have to be totally reliant upon unreliable foreign sources of energy. We will then be completely at the whim of others for our energy provision, or we will have a very small amount of energy available.

Any kind of reduction of any significance in our supply of energy will very quickly reduce our standard of living. It will reduce our employment. It will reduce the social programs that are available to the people of this Nation.

So I want to stress that this amendment will remove a barrier to proper development of our resources, and will permit more coal to be developed, than if this provision remains in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. HANSEN. Mr. President, I just want to make the observation that a year ago, believing as I then did that there was no chance at all that we would include in this bill a provision affording the owner of the surface only the right to veto a mining operation, I proposed that we include a royalty provision which would stipulate the amount of money that would be paid to the surface owner in consideration for the disruption of his ranching or farming activities that would result from a surface mining operation.

I was not successful in getting that amendment passed. I shall oppose the amendment of the Senator from Oklahoma despite the fact that my guess is if this bill passes, as I think it is likely to pass, and I shall have an amendment later to propose to try to improve it; but, nevertheless, if it passes, as I suspect it will pass, it is my feeling that what the Senator from Oklahoma has proposed, if we could include a provision to pay a royalty to the surface owner, would result in a better bill than I think likely will result.

I wanted to make that observation. I will not suggest, I will not propose, that there be a royalty payment made, but I just felt out of fairness and candor to observe that the expressions from nearly everyone on the Senate Interior Committee a year ago, until we went to conference, inclined me to believe there was no way that the Senate Interior Committee or the conferees representing that committee would agree to any granting of a right to the surface owner to veto any surface mining legislation.

If I felt that this amendment would carry, then I would think that there could be some merit in trying to amend and perfect it.

I have no illusions about that. I wanted the Senator from Oklahoma to understand my reasons for voting against his amendment.

The PRESIDING OFFICER (Mr. BROOKE). The question is on agreeing to the amendment of the Senator from Oklahoma.

The yeas and the nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

The result was announced—yeas 16, nays 77, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—16

Bartlett	Fannin	McClure
Bellmon	Fong	Scott, William L.
Byrd, Harry F., Jr.	Goldwater	Stevens
Curtis	Griffin	Thurmond
Eastland	Helms	Tower
	Hruska	

NAYS—77

Abourezk	Hart, Philip A.	Moss
Allen	Haskell	Muskie
Baker	Hatfield	Nelson
Bayh	Hathaway	Nunn
Beall	Hollings	Packwood
Bentsen	Huddleston	Pastore
Biden	Humphrey	Pearson
Brock	Inouye	Pell
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Johnston	Ribicoff
Cannon	Kennedy	Roth
Case	Laxalt	Schweiker
Chiles	Leahy	Scott, Hugh
Church	Long	Sparkman
Clark	Magnuson	Stafford
Cranston	Mansfield	Stennis
Culver	Mathias	Stevenson
Dole	McClellan	Stone
Domenici	McGee	Symington
Eagleton	McGovern	Talmadge
Ford	McIntyre	Tunney
Garn	Metcalf	Weicker
Glenn	Mondale	Williams
Gravel	Montoya	Young
Hansen	Morgan	

NOT VOTING—6

Buckley	Hart, Gary W.	Percy
Bumpers	Hartke	Taft

So Mr. BARTLETT's amendment was rejected.

Mr. McGEE. Mr. President, Wyoming has the second most abundant supply of strippable coal reserves in the United States—almost 24-million tons. We are not a selfish State; the citizens of Wyoming realize the Nation needs coal to meet the ever increasing demand for energy.

At the same time, we are desirous that the lands in Wyoming which produce

the coal, as well as the people on and around those coal-laden areas, are protected—protected from selfish or noncaring interests. There must be a sensible way to mine coal for the country's requirements and at the same time shelter mother Earth which provides these minerals.

I, therefore, urge the passage of S. 7, the Surface Mining Control and Reclamation Act. The act will enable us to carry out production of coal with protection of our natural resources.

Agriculture is the second largest industry in Wyoming. I believe the lands in the State can continue to produce food and coal at the same time under the protections afforded by the act. It is time to act.

The Congress has 4 years behind it on surface mining and reclamation work. We have reached general agreement before, based on those years of study and debate. Our efforts must bear fruit.

The bill establishes the basic standard that land may not be strip mined unless it can be reclaimed. It contains specific reclamation standards and gives the states the principal responsibility for regulation. The bill also, and importantly, protects those who own the surface where federally owned coal lies.

To allow surface mining without the protections of this bill would be a reckless course in any State. To again fail to realize enactment of a surface mining law would be a mistake with which we'd all have to live.

I am not willing to call upon my State or any other State to make the supreme sacrifice.

This bill is one of the most vital and urgent considerations in the country today.

I call to the attention of the President who vetoed the strip mine bill last year the fact the bill is one containing results of hundreds of hours of work and input from experts with the best interests of the country at heart. Another veto or delay would not be in the best interests of the country.

Mr. President, I urge the Senate to pass S. 7.

Mr. BAYH. Mr. President, I rise to support S. 7, the Surface Mining Control and Reclamation Act of 1975. This measure is essentially the same legislation enacted by the 93d Congress on December 16, 1974, and later unwisely vetoed by President Ford. I believe enactment of this legislation is crucial in order to insure an adequate energy supply for our Nation while, at the same time, preserving and maintaining a satisfactory level of environmental quality.

Federal legislation to regulate surface coal mining is certainly long overdue. The Congress has now been considering this legislation for over 4 years. We can no longer afford to delay Federal strip mining control which will at last enable the coal industry to proceed with the development of our Nation's vast coal resources in a manner which will protect the natural resources of our country from unnecessary damage.

I would like to bring to the attention of my colleagues that some States, including my own State of Indiana, have been way ahead of the Federal Government on the issue of strip mining control. In 1967, Indiana enacted strong and pioneering legislation to control strip mining operations within the State, One area that Indiana has considered in detail is the requirements for adequate reclamation of damaged land. Indiana's reclamation requirements call for a return of the land to its "highest potential capabilities," therefore allowing land to be used for reforestation farming or recreation despite the original use of the land before the mining.

While Indiana has been farsighted in its approach to strip mining and land reclamation, many States have not. Therefore, I support the need to establish uniform minimum Federal standards throughout the country, on both public and private lands, in order to assure adequate environmental protection from the ravages of uncontrolled stripping in all States.

This legislation before us today mandates that any State law which provides for more stringent land use and environmental controls on surface mining and reclamation operations than exist under Federal law shall not be considered inconsistent with that Federal law. This protects States such as Indiana that already have strict controls on strip mining.

When President Ford vetoed this vital legislation last December, he did so on the grounds that the strict requirements which the bill imposed upon companies in strip mining for coal would decrease domestic coal production and increase the price of coal to consumers. While the administration adopted this position, the figures which might substantiate such claims vary so widely as to make them meaningless. For example, according to the Committee on Interior and Insular Affairs report on S. 7, the various administration estimates of these threatened "production losses" have ranged from 14 to 114 million tons a year.

Despite the cries of the administration, the fact remains that this country has more than 500 years of coal reserves. Simply stated, the problem is not the abundance of coal, but how to get it out of the ground and use it in an environmentally acceptable and economically sound bases.

Mr. President, I believe that the legislation we have before us today will provide just such a mechanism. For too long now the society has had to bear the costs of uncontrolled strip mining. Society has borne these costs in the form of ravaged land, polluted water, and other adverse effects of surface coal mining.

I am confident Mr. President, that the Senate will approve this landmark legislation, and I am hopeful that the White House will not once again choose the unwise path of a veto. Each year that goes by without such minimal Federal control produces more and more destroyed land—land that cannot be reclaimed. I urge the Senate to once again take a stand for the protection of our natural resources and enact the Surface Mining Control and Reclamation Act of 1975. I do so emphasizing my sincere belief that this act will not significantly reduce domestic coal production nor impose unfair burdens on coal producers. In other words, Mr. President, this bill protects the environment without impeding our wise national quest for energy self-sufficiency.

Mr. HANSEN. Mr. President, regarding the provisions of section 527 for special bituminous coal mines, I understand that the section applies only to pits which were operational prior to January 1, 1972, and that only specific pits, not entire operations which may cover thousands of acres, are eligible. It is also my understanding that the regulatory authority should examine the long-range operational plan for eligible pits to ascertain the necessity for special treatment. As expressed in the joint statement of the committee of conference, in some cases, the regulatory authority may determine that the reworking of old pits or combination of existing pits on a mined site will provide an opportunity for a mining operation to so adjust as to meet the basic provisions of the act. Would the gentleman not agree, however, that in like manner, a combination of existing pits may be eligible for the special treatment provided in section 527 where such combination meets the special standards of the section, and there has been a commitment to a mode of operation which makes adjustment to the basic standards of the act difficult and not practicable?

Mr. METCALF. Yes; I would agree.

Mr. MANSFIELD. Mr. President.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Montana.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I have discussed the matter which I am about to propose to the Senate with the distinguished Senator from Montana, the manager of the bill, and the distinguished Senator from Arizona, the manager on the Republican side, and they have indicated that it would be possible to finish this bill tomorrow with a final vote at 3 o'clock.

Therefore, Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 7

Mr. MANSFIELD. Beginning at that hour, the pending business will be laid before the Senate.

I ask unanimous consent that there be a time limitation of not to exceed 30 minutes on all amendments to the bill, with the time to be equally divided between the sponsor of the amendment and either the manager of the bill or the ranking Republican member.

Mr. CURTIS. Reserving the right to

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

The Senate resumed the consideration of the bill (S. 7) 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.

AMENDMENT NO. 77

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes an amendment numbered 77, as modified:

On page 14, line 5, beginning with the word "other" strike out through the word "research" in line 7 and insert in lieu thereof "other institutes".

The PRESIDING OFFICER. The Senator from Kentucky is recognized for not to exceed 15 minutes.

Mr. FORD. Mr. President, at the desk is an amendment numbered 77. This amendment, on page 14, line 5, beginning with the word "other", would strike out through the word "research" in line 7 and insert in lieu thereof "other institutes".

There is a fear by many of those in this field that employees of various institutes might want to move others. There is a fear that this language would prevent them from making this transition. I understand that these words will eliminate that fear.

I have talked with the distinguished floor manager of the bill about this amendment. I believe there is an agreement on it, and I yield to the distinguished floor manager.

Mr. METCALF. Mr. President, I say to the Senator from Kentucky that Kentucky institutions have contributed to the research and development of reclamation and of the clearing of orphan lands. I would disapprove of anything in the bill that deprives these agencies from participation.

I compliment the Senator from Kentucky for offering this clarifying amendment, so that the people of that area as well as others who are concerned will have an opportunity to participate in the reclamation and restoration of orphan lands. I think this helps the bill, helps to clarify what we are trying to do, and I accept the amendment.

Mr. FORD. Mr. President, would it be in order that I ask unanimous consent that the amendment be accepted?

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. FORD. Mr. President, I have one question, and I should like to preface the question with a remark or two addressed to the distinguished floor manager. It will take about a minute or two.

Mr. President, it was my privilege, while Governor of the Commonwealth of Kentucky, to initiate and support a partnership between my State and the Fed-

eral Government to gasify and liquefy coal to provide the people of this Nation with energy so vitally needed. I took this position because our Nation must sever its dependence on foreign powers to provide us with the energy fuels we need.

We are most fortunate to have an option open to us, and we must take every advantage of this opportunity. The challenge is clear. We must find ways to produce and use this abundance of natural resources with which nature has provided. Unfortunately, we must accept these natural resources in the form in which they exist, and not in the form we wish they existed. The program which I supported, and still support, would certainly satisfy this requirement, and I urge Congress to push on toward energy independence. We must avoid at every turn any legislation which inhibits our advancement to this goal.

H.R. 25 and S. 7, the surface mining bills now being considered by Congress, both contain language which, if they had been approved by Congress, would make it almost impossible for private industry to gasify or liquefy coal.

Simply stated, section 506(c) of S. 7 and H.R. 25 require that a permit would terminate if the permittee had not commenced the surface mining and reclamation operations covered by such permit within 3 years of issuance. I am in favor of this language, wherein it attempts to insure that this valuable natural resource is made available for the people of the United States without delay.

However, let me caution that in connection with an application to dedicate the coal to a gasification or liquefaction project, there must be sufficient guarantee that the permit will not be canceled prior to the time the coal is required as feedstock for the plant itself. If a package is put together for investment purposes and construction of a gasification plant is anticipated over a 4-year or 5-year basis, then a permittee should not be required to risk reapplication at the end of 3 years; nor should he be required to mine the coal and stockpile it for a 2-year period until such time as it is needed as feedstock.

There are to be different methods of extracting coal for gasification and liquefaction facilities. In my State, our reserves are primarily deep, which means synthetic energy plants will be supplied coal from underground mines more than they will from surface mining. However, because this bill relates to surface mining and there will be reserves acquired through this method, it is important to consider the implications of reapplication.

There is an inherent danger if we require this procedure to be followed, because coal stockpiled for any period of time could create a hazard because of combustion: and, of course, there could be considerable deterioration and loss of B.t.u. quality of the coal caused by its exposure to the forces of nature.

Mr. President, I am pleased that during the markup of this legislation, the Committee on Interior and Insular Affairs recognized this danger and has now amended the original language of the bill as follows:

At page 53, line 21, striking the word "A" and inserting "unless otherwise provided in a permit, A".

I ask the manager of the bill if it was the intent of the committee, when this modification was adopted, to insure that the holder of a permit which was issued for the purpose of stripmining coal to provide feedstock for gasification or liquefaction would be exempted from the 3-year requirement?

Mr. METCALF. The purpose of the section beginning with the last words in line 22 and so forth was to provide that, once a permit was given for the mining of coal, there would be immediate and prompt mining, and that someone would not sit on a permit and hold up the development of coal operations.

Then testimony was presented to the committee, in accordance with the discussion that the Senator from Kentucky has made, that maybe a liquefaction plant or some other sort of plant would take longer than 3 years for development, for financing, and for final completion. Therefore, we provided, as the Senator has suggested, that unless otherwise provided in the permit, and that is the language on line 22, there could be an extension of time.

So when someone comes in with a plant that is going to take, maybe, 5 years to develop, to finance, and to complete, then will present the whole program to the person who is in charge—either the Secretary or the person in the State who is in charge—and write into the permit itself the estimated amount of time that it will take to develop the surface mining property and adjacent property for liquefaction or whatever the program is.

So that language, that amendment, was put in exactly for the purposes suggested by the Senator from Kentucky, and the report language makes it clear that that is the purpose that we desire.

Mr. FORD. I thank the Senator.

I also ask if the time at which operations must begin would be determined by the time required to construct the processing plant, and the regulations would be broad enough to include such a stipulation in the permit? I believe he answered my question, but I still wish to have that a matter of record.

Mr. METCALF. There is a good deal of latitude permitted to the administrator and at the time the application for the permit was made, it would certainly be written into the permit and be contemplated that the administrator—whether the Secretary or the State administrator—would have a good deal of latitude in deciding what the terms of the permit were.

Mr. FORD. I thank the floor manager for the answers to my questions and his courtesy this morning.

Mr. METCALF. I thank the Senator.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STONE). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I offer an amendment to title V of the bill. I will send it to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. FANNIN) proposes an amendment.

The amendment is as follows:

Title V, page 87, Section 515(b)(19), line 5, commencing with the word "location", strike all thereafter through line 7 and substitute the following:

. . . structures are located so as to minimize danger to the health and safety of the public if failure should occur;

CONFORMING AMENDMENT

Title V, pages 98 and 99, Section 516(b)(15), line 25, commencing with the word "location", strike all thereafter through line 2 on page 99 and substitute the following:

. . . structures are located so as to minimize danger to the health and safety of the public if failure should occur;

Mr. FANNIN. Mr. President, these amendments dealing with the placement of water impoundments for waste disposal are intended to remedy existing language. As now written, this language would require the removal of virtually all existing impoundments, and could disallow the placement of this type of impoundment in almost any location since, if failure was to occur, it would be almost impossible not to create some danger to the public health and safety. Almost any impoundment or dam in the Nation, if it was to fail, would create a hazard to public safety.

The administration bill retains language in subsection 515(b)(13) that imposes specific requirements that only the best engineering practices for design and construction be used in order to achieve the necessary stability with an adequate margin of safety to protect the health and safety of the public. It may also be noted that new regulations for waste impoundments to be promulgated by the Secretary of the Interior under the Coal Mine Health and Safety Act of 1969 have now been formulated and are pending review of the final environmental impact statement before being published in the Federal Register. These regulations will offer strong and adequate safeguards for the construction of waste impoundments.

Mr. President, on page 87, line 5, the language now reads:

. . . and that the location will not endanger public health and safety should failure occur;

This is a requirement that cannot be met.

The basis upon which I am offering the amendment is to say:

are located so as to minimize danger to the health and safety of the public if failure should occur.

In other words, it is clarifying language to be sure that what is stated in the legislation could actually be enforced. I feel that this would be a clarifying amendment and would be more specific as to just what is intended, and that it would

be possible, whereas the present language is not, and I trust that the distinguished manager of the bill will accept this particular amendment.

Mr. METCALF. Mr. President, the amendment or proposition that is presented by section 515(b)(13), and especially the language cited by the Senator fro Arizona is explained on page 214 and page 215 of the committee report.

The committee report says:

A great deal of misunderstanding has occurred regarding the performance standard relating to the construction and location of water impoundments. The provisions of S. 7 require that both new and existing impoundments must be located in such a manner that they "will not endanger *public health and safety* should failure occur." It has been argued that this provision could prohibit the use of impoundments throughout the coal mining industry since under even the best circumstances a minimal risk of danger to one or more individuals will always occur if an impoundment should fail. This argument is based on a patently unreasonable interpretation of the statutory language.

Then we go on:

The Committee does not intend to prohibit all impoundments. The Committee does intend to require not only that impoundments be built in accordance with stringent construction standards, but also that mining companies be required to design their mining plans so as to avoid locating impoundments in areas where failure would cause entire towns to be wiped out.

In recent months we have heard about entire towns, especially in Appalachia, being wiped out. wiped out for two reasons: First, because of the location of the impoundment; and second, of course, because they use the mine residue to construct the impoundment. That is also prohibited by this bill.

But then, going on:

Impoundments are to be constructed only in safe locations. If they cannot be located safely, then they should not be built.

Now, the argument that is presented by the Senator from Arizona that you can never have an absolutely safe impoundment would, of course, apply to every Bureau of Reclamation dam, every Corps of Engineer dam, every dam that we have constructed. It is not the intention of the committee to say that you cannot have a dam for impoundment. It is just the intention of the committee to say they should be located in safe places where they will not endanger towns, and they shall be built in accordance with the main engineering and technology that is available at the time.

I do not interpret the language—and that the location will not endanger public health and safety should failure occur—in the same way that the Senator from Arizona interprets it. But I do not see any difference in his language.

Mr. FANNIN. Well, Senator, I think we both have——

Mr. METCALF. And the language of the bill. I think the language the Senator is proposing will do exactly the same thing as the language we have in the bill.

We are talking about minimal propositions in our committee report and inasmuch as the administration and the minority are concerned about it, and we have made the record and the committee report has made the record, I think the Senator's langunge says exactly the same thing the committee language does, I see no reason why that should not be clarified.

Mr. FANNIN. Well, Mr. President, I wish to express my thanks to the distinguished Senator from Montana, the chairman.

Mr. METCALF. The whole proposition is that we do not want dams built where they endanger towns or people.

Mr. FANNIN. I understand that.

Mr. METCALF. We do not want them built with shoddy construction so that they are not in the best technology that is feasible at that time.

Mr. FANNIN. Mr. President, we do——

Mr. METCALF. And we agree on that.

Mr. FANNIN. Yes, we agree, and I think it is very clearly stated under this language that there would not be the reluctance to build the type of a dam I am thinking about, in many instances, which would be storm-controlled, or something similar.

Under present language, I was afraid it might be misinterpreted, and this does clarify that.

Mr. METCALF. I do not want it misinterpreted that we are permitting companies to build the kind of dams they have been building in West Virginia and Kentucky, and so forth, to get up in the morning and read about a flash flood with a whole town washed down the river.

Mr. FANNIN. Right, but that kind of structure would not minimize danger to health and safety.

Mr. METCALF. I think the Senator's language says exactly the same thing as ours.

I have no objection.

Mr. FANNIN. Then, Mr. President, I ask for immediate approval of the language that has been submitted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. FANNIN. Yes, all time is yielded.

Mr. METCALF. All time, yes, I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, line 5, strike all through line 24, page 113 and insert the following:

CITIZEN SUITS

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

(1) against any person including—

(A) the United States,

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution, and

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

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

(b) No action may be commenced—

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

(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; 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 any rule, regulation, order, or permit issued pursuant to this Act, 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 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 any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages

(including attorney fees) in an appropriate United States district court.

Mr. FANNIN. Mr. President, I would just like to explain that on page 111, line 12, section 520, following "amendment to the Constitution", we would add, "and (C) any other person who is alleged to be in violation of" and then strike the language "of the provisions of this Act or the regulations promulgated thereunder, or order issued by the regulatory authority", and add "any rule, regulation, order, or permit issued pursuant to this Act;"

Mr. President, if we leave the language as it is presently, this could undermine the bill's permit mechanism and could lead to a mine-by-mine operation in virtually every ambiguous aspect of the bill, even if an operator 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 amendment but are modified—consistent with other environmental legislation—to provide for suits against the regulatory agency to enforce the act, and mine operators where violations of regulations or permits are alleged.

In effect, the amendment would permit a suit to hold the mine operator accountable for violating requirements specifically for which he is not responsible. The danger of permitting a suit against a mine operator for any violation of the act is that he would be subject to suit where it is claimed that the regulations under which the operator is mining are not in accord with the act. This possibility is particularly serious since the mine is subject to closure through preliminary injunction or otherwise with consequent loss of coal production.

Extensive litigation of the many uncertain or ambiguous provisions of this new legislation could have serious production impacts. In such a situation, a citizen suit should be brought against the regulatory authority which is alleged to have improperly issued the regulation. If it is determined that the regulatory authority's action was not in accord with the law, the regulatory authority can be compelled to correct its error vis-a-vis a mine operator through modification of regulations or permits.

Confining citizen suits against mine operators in this way does not materially undercut the concept of citizen enforcement of the legislation, because ample opportunity for citizen involvement in promulgation, issuance, and review of regulations and permits is provided and because citizen suits could be brought under the amendment to require the regulatory authority to act in conformance with the legislation.

Mr. President, I trust that the distinguished Senator from Montana will approve this particular change.

Mr. METCALF. I thank the Senator from Arizona.

Mr. President, while this amendment is long and relates to the whole of section 520, there is only one change, and that is in subsection (1)(B).

The section as it now reads says that in a civil suit, in a citizen's unit, you can sue A. any person, including the United States, and then B. any other governmental instrumentality or agency to the extent permitted by the 11th amendment to the Constitution, and C. any other person who is alleged to be in violation of any rule, regulation, order, or permit issued by a regulatory agency.

The concern expressed by the Senator from Arizona is that a mine operator can follow the statute, can follow the regulations, can follow the standards submitted, and at the same time might be subject to a shutdown or a suit as a result of that language. His amendment, then, changes that language to add:

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

It is his concern that the person who is conforming with the regulations and with the act should not be sued. The person who should be sued is the regulator, or the person who should be sued in a citizen's suit is the enforcement agency which is failing to make the enforcement.

As a natural matter, Mr. President, if I were filing a citizen's suit in a situation such as this, where I felt that the regulations were wrong and the mining company was not conforming to the regulations, I would join them both in a citizen's suit. I would come in and make the argument that this is not in accordance with the law and that there has been a violation. If I were the judge in that case, I would say, "Look, the mining company is conforming to the law," and I would dismiss it, if they were completely conforming.

I do not want to keep a citizen from filing a suit in that situation, and nothing in this amendment would keep a citizen from filing such a suit and joining both of them. I think the court would say to the mining company, "We're not going to make you cease and desist if you do everything that the regulations require, everything the regulator agency requires, and everything that the statute seems to require as interpreted by the regulator."

I do not quite understand why the administration is so concerned that the language in the bill will lead to proliferation of suits and that the language propounded by the Senator from Arizona does not. It does not seem to me to make any difference.

I do not believe that the committee wants any mine company that is complying with the regulations and the standards that have been promulgated by the regulating agency—whether it is the Secretary of the Interior or the State—to be put out of business by any citizen's suit or any other suit. The suit should be against the regulatory agency. When the regulations are promulgated, a citizen should be allowed to come in and say, "Look, these regulatians are not in conformity with the provisions of the statutes."

So I am not at all impressed by the concern. Again, I do not think the language suggested makes any difference. I believe we are after the same thing, I say to the Senator from Arizona. What he wants to write in was suggested by the staff when we had the staff study of the administration proposals.

Mr. FANNIN. The Senator is correct.

Mr. METCALF. This is one of the things that the President brought up in his message on the pocket veto of this bill.

I think we are thoroughly protected with this language or the other language. If the Senator is concerned about it, I would be delighted to accept the amendment.

Mr. FANNIN. There is the feeling, I say to the distinguished Senator, that this amendment clarifies the matter, and I think it would be helpful in interpretation. If the Senator is in agreement, I ask for immediate consideration of the amendment.

Mr. METCALF. Mr. President, I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I sent to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

UNITED STATES SURFACE OWNER

SEC. 718. Notwithstanding the provision of Section 716 of this Act or of any other law requiring consent of the surface owner, in any case in which the surface right of any area is owned by the United States (other than in a trust status) and the sub-surface rights to such area are owned by any person or entity other than the United States, the owner of such sub-surface right shall be permitted to mine such area without the consent of the surface owner unles such area has been withdrawn by law from all forms of mining operations.

Mr. STEVENS. I wish to modify that by putting the word "from" in front of "such"—"to mine coal from such area unless such area has been withdrawn," and so forth.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill add the following new section:

UNITED STATES SURFACE OWNER

SEC. 718. Notwithstanding the provision of Section 716 of this Act or of any other law requiring the consent of the surface owner,

in any case in which the surface right of any area is owned by the United States (other than in a trust status) and the sub-surface rights to such area are owned by any person or entity other than the United States, the owner of such sub-surface right shall be permitted to mine coal from such area without the consent of the surface owner unless such area has been withdrawn by law from all forms of mining operations.

Mr. STEVENS. Mr. President, this is a technical amendment, but it is brought about by the fact that under the Alaska Statehood Act and under the Alaska Native Claims Act, both the State of Alaska and the Alaska native entities were allowed in some instances to select subsurface rights, and have done so. The surface of those areas is still owned by the United States. The intent of this amendment is to require that coal mining be permitted without the consent of the Government unless Congress has withdrawn the area from mining by law.

Let me point out just an instance. I am sure my friends from Montana and Arizona remember that we were given the right in the first brief period right after statehood to select the subsurface rights that were already subject to oil and gas leases issued prior to statehood, even though the surface was not available for selection. Having done so, we now own the subsurface rights as a State and, in certain instances, as I said, the native people will own subsurface rights.

I do not feel that, by executive action, the right to mine coal in those areas should be prohibited. There are some proposals before Congress which will require the approval of Congress for withdrawals in some of these areas. To me, that is a congressional decision and not an executive decision to thwart the rights that were given by Congress to the State and the native people.

I ask my friends, the Senator from Montana and the Senator from Wyoming or the Senator from Arizona, whoever is managing the bill for our side, if they will accept this amendment in the spirit in which it is offered. It is a highly technical amendment, but one which I think is necessary to protect those who selected the subsurface rights and as such, incidentally extinguished the right to the total lands in the amounts in which they were given.

If my friend from Montana will comment, I would appreciate it.

Mr. METCALF. Mr. President, as the Senator from Alaska points out, the Statehood Act for Alaska was a more comprehensive act and a different sort of act and, in my opinion, a very generous act as compared to some of the Statehood Acts in the State of Montana, Wyoming, or other States. The complexity was further compounded, of course, by the Alaska Native Claims Settlement Act, on which the Senator from Alaska and the Senators from Wyoming and Arizona worked for a long, long time. So we have a completely different statutory situation than we have in the so-called lower 48.

I think that this amendment only clarifies some of the statutory provisions and clarifies the intent that we had in passing the Alaska Native Claims Act and the Statehood Act to give the control over the subsurface rights to the people of Alaska. I agree to the amendment.

Mr. STEVENS. I thank my friend from Montana.

Mr. FANNIN. Mr. President, I concur with what the manager of the bill has stated. This is consistent with what was intended in the Alaska Native Claims bill. It would certainly be improper not to abide by that understanding. I commend the senior Senator from Alaska for bringing up this amendment, which does, I think, assist in clarifying exactly what was intended and what should be in the legislation.

Mr. STEVENS. I appreciate the statements of both the Senator from Montana and the Senator from Arizona. I supported the McClure amendment because of this problem. When the McClure amendment did not pass, we thought it absolutely necessary to get a technical amendment to cover our specific situation. I think this will do it.

I ask my friend if he will accept the amendment. If he will, I move the adoption of the amendment.

Mr. METCALF. Yes, I feel the amendment is a proper one and a significant one. I accept it and I yield back my time.

Mr. STEVENS. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. STEVENS. I thank the Senator from Montana very much.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an amendment as follows:

On page 38, line 7, strike the word "housing".

Mr. DOMENICI. Mr. President, even though this amendment strikes only one word, I wanted to offer it as a separate amendment and engage in some dialog with the managers of the bill.

This amendment deletes the word "housing" from that portion of the bill that gives the Secretary the authority to use the funds in various ways, in particular this one.

The word "housing" as used there was followed by the word "facilities." It was my understanding that those who endorsed this concept in committee were concerned about the fact that there may be unusual growth situations, sometimes referred to as boom towns, and that these particular areas of rapid growth might not have the wherewithal to do the planning to provide for the necessary facilities, water and sewer, streets, and the like, to accommodate the rather extraordinary growth attendant on areas where increased mining takes place.

It appears to me that the intention is far better served if we strike the word "housing," so that that section would just have in it the provision that the Secretary could use this money under these conditions where there was a need of facilities. I understood this was clearly the intention, that we were trying to solve a bigger problem than just housing needs that might occur in these extraordinary boom town growth situations, but that we had tied it to housing.

I want to clarify the situation so that these funds will not have to be used just for housing, but for any of a myriad of problems incident to growth that might occur with a new or accelerated mining area, as a result of a well-defined and orderly strip mining law in our country.

Mr. METCALF. Mr. President, the Senator from New Mexico has pointed out the use of a probably very restrictive word, "housing."

It was contemplated that when we have the boom towns in the West—we have some in Montana and Wyoming at the present time, and we will have some in New Mexico if they start stripping up there in the Four Corners area, and so forth—it was pointed out that such communities need sewer systems, water systems, all kinds of services, new schools, extra policing, all of which come out of local tax revenues, and the rapid influx of new people into such an area causes the local taxpayers to have their taxes sometimes doubled or tripled, and at the same time they do not have adequate facilities for the new people to be located.

The committee was talking about and the discussions in the committee and the testimony on this part of the bill were all concerned with services, additional water and sewer lines, roads, streets, and all those things that are needed as a result of a rapid influx of people.

I think the Senator has pointed out an important area where we need to have more flexibility than the bill, if read technically, would provide. I certainly would agree to the amendment, which reflects the intention of the committee.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. FANNIN. Mr. President, I also wish to thank the distinguished Senator from New Mexico, because he was observant, in this instance, in determining exactly what was intended. The bill is a little misleading as now worded, and, as the distinguished chairman of the committee and manager of the bill has stated, our committee discussions were in accordance with the amendment which he now proposes. I support his amendment; I feel it is clarifying and will be very helpful in implementation of this act.

Mr. DOMENICI. I thank the Senator from Arizona. I understand it was the Senator from Wyoming (Mr. HANSEN) who brought up the very basic issue encompassed in this section 403 and the subsections under it. I commend him for

his foresight in giving the Secretary some latitude in helping alleviate the situations described. It was my intention simply that the intent expressed by the committee is carried out, and that it is not limited to housing. The word "housing" is a kind of mark for determining the need, though we do not need it in here as long as the legislative history indicates what we are talking about, facilities and the like.

Mr. HANSEN. Mr. President, if the Senator from New Mexico will yield, I would like to add my compliments to those already expressed in congratulating him on his diligence and perceptiveness in pointing out the change in language which would make clear the intent of Congress.

It was pointed out in committee that there has been strip mining in the past that did not have to comply with the sort of requirements we are outlining in this bill. For the most part, the impact we anticipate, that has been experienced by towns such as Gillette, Rock Springs, Kemmerer, and Hanna, Wyo., and other places, will be softened by virtue of the thrust of the concern expressed by the Senator from New Mexico. These areas need money not only for housing, but for sewers and for other services that we normally look toward a city government to provide.

I want to express my appreciation for the effort that is represented here by his presentation and to commend him for it.

Mr. DOMENICI. I thank the Senator.

I want to say this to the Senator from Wyoming. I am going to offer another amendment immediately following this one that would further expand the ability to use money in this matter, but it is under a separate section. I would rather vote on this one first, and then I will explain the other one in detail.

I yield back the remainder of my time.

Mr. METCALF. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the amendment of the Senator from New Mexico. [Putting the question.]

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an amendment on page 26, lines 20 and 21 strike the words "for the reclamation of previously mined areas." On line 22 following the word "stated," add the words: "(a) reclamation of previously mined areas;". Thereafter, renumber following subsections.

Mr. DOMENICI. Mr. President, in this regard I noted that yesterday the distinguished Senator from Kentucky (Mr. HUDDLESTON) amended section (e) of 401 by inserting immediately preceding the "Provided, however" clause some language giving the Governors and the tribal leaders; respectively, some input and jurisdiction over the way the Secretary allocated the half that belonged to the Indian tribes and/or States by saying that he would take their recommendations into consideration in spending the money.

It would appear to me that since that money is intended by this bill to go one-half back to the region from whence it came, and then under the section we just amended, the Secretary has broad discretion to put it back in various places, that those of us who come from States that are going to yield an awful lot of this money, but do not have an awful lot of abandoned or orphaned mines, would be trying to relegate it exclusively to the discretion of the Secretary under the section we just amended.

It appeared to me that the objectives of the fund found in section 402 could be easily adjusted so as to accommodate those States which have serious problems attendant to mining but yet do not have significant orphaned mine problems.

So what my amendment does is take the objectives of fund section, section 402 and, as we read it, we would strike from the initial sentence the words "for the reclamation of previously mined areas," for if it is left there it becomes exclusive, and all of the subsections under it are concerned only with reclamation of previously mined areas.

So what we are doing is deleting it, but not forgetting about it, taking it out of there and then making the reclamation of previously mined areas the first objective of that fund, so that if you have a State or region Indian tribe that is entitled to spend this money, this one-half that the Secretary has collected, and gets together with them to see how he ought to spend it, we will find that they must first use it for the reclamation of previously mined areas, as defined in the section that follows this one, section 403.

But in the event they do not have any of those, then we go on and put in the sections that were under this, which are the protection of the environment, and so on, including roads, and the like, all within that section to be constructed, built or provided for out of that fund.

So that it will not be lingering around indefinitely for years in an unused pool, we have not seen fit to change the 3-year mandate of the section. In other words, the States or Indian nations have 3 years within which to use that money under this section and under the section as amended by Senator HUDDLESTON yesterday, which adequately provides and guarantees them one-half of the fund for 3 years.

I would be pleased to answer any questions on this. I truly believe that it is more in the spirit of the bill to clarify that we do not intend to spend all of the money from the newly mined areas to clear up the orphaned mined areas of other States, although some may go there and some may go there in large proportions if unused in the State from whence it came, and certainly under the one-half that remains with the Secretary of Interior. In any event, it has brought discretion there.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield.

Mr. HANSEN. Mr. President, I compliment the distinguished Senator from New Mexico yet another time for perceiving an ambiguity and a restriction which was not intended by the committee when this legislation was being drafted.

I think this amendment is highly in order. It will achieve the purposes that have been spelled out by the Senator from New Mexico, and clearly is very much in the public interest.

Most of the contribution to this fund will come from mining activities that are prospective. We have not yet undertaken them. It seems eminently fair to me that a proportion of that fund should go back to those areas where the actual mining has been and will be taking place, and that it should address the problems that have been identified by the Senator from New Mexico.

I want to associate myself with him and urge the adoption of this amendment by the Senate.

Mr. METCALF. Mr. President, I concur in the remarks of my friend, the Senator from New Mexico, and the remarks of my friend, the Senator from Wyoming. This is largely a technical amendment. It merely moves the words "reclamation of previously mined areas" down as to only one of the purposes for which the money can be used.

Mr. DOMENICI. Precisely.

Mr. METCALF. Clearly, in my mind, that was the intention of the committee.

I compliment the Senator for calling it to our attention.

Mr. DOMENICI. I think, Senator, had we not done this, very easily there could have been a construction that that entire fund could only be used where we have previously mined areas, and I think that this amendment makes it clear.

Mr. METCALF. All of the provisions of (a), (b), (c), (d), and (e) of section 402 make it clear.

Mr. DOMENICI. It will now make it clear that so long as there are no previously mined areas that have to be reclaimed, as defined in section 403, that the fund can be used.

Mr. METCALF. Subject to the provisions of section 403, and subject to the provisions of the Huddleston amendment yesterday, the Senator has made it clear as to all of the objectives that are outlined in section 402.

Mr. DOMENICI. I would say to the distinguished Senator that I do still have a little bit of trouble with the section, but I am not going to quibble about it. I think by setting priorities we may be relegating some very much needed things to secondary and tertiary positions. But I think commonsense will be applied. We will not look around for (a), (b), (c), (d), and (e), in the individual sense, but we will look at the broad area. I hope that is the sense in which we will follow the priorities in this whole section.

Mr. METCALF. It is devoutly to be hoped that this bill will be administered with commonsense.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. METCALF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from New Mexico. [Putting the question.]

The amendment was agreed to.

AMENDMENT NO. 91

Mr. MATHIAS. Mr. President, I have an amendment to send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes amendment No. 91.

The amendment is as follows: on page 41, lines 7 and 8, 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.".

On page 69, after line 7, insert a new paragraph (4) as follows and renumber subsequent paragraphs accordingly:

"(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;".

Mr. MATHIAS. Mr. President, for the convenience of the Members of the Senate, I point out that the amendment is printed in the RECORD of March 11 on page S3597.

Mr. President, I am offering an amendment to S. 7, the Surface Mining Control and Reclamation Act of 1975, which will phase out surface mining on steep slopes. These are defined in my amendment as slopes over 20 degrees. It provides a 30-month phasein program to minimize any problems associated with the eventual prohibition on steep slope operations.

In seeking to amend this most comprehensive piece of legislation, I do not intend to imply dissatisfaction with the overall product. I am proud to be a cosponsor of S. 7. I extend my congratulations to the members of the Interior and Insular Affairs Committee and the committee's chairman, Senator JACKSON, and to the distinguished managers of the bill on both sides today. This has been not only a difficult technical undertaking, but also difficult from the legislative point of view.

I am pleased that the end is in sight legislatively as well as being pleased that the end product is a workable, but tough regulatory framework for the strip mining industry.

S. 425 very nearly became law in the 93d Congress. When it was considered by the Senate, I offered an amendment, which would have accomplished much the same purpose as my amendment today. Since that time, much has happened. We have survived an oil embargo and we are well on our way to enacting comprehensive energy legislation to govern not next year, but the next 20 years. Project Independence has been blueprinted by the Federal Energy Administration and that report reemphasizes the important part that coal will play in meeting this Nation's energy needs.

But something else has happended as well. Mr. President, we have become much more sophisticated as a people in recognizing the tradeoffs which are inherent as our energy needs interface with the environment which we all exist in. We have had to meet and resolve so many difficult questions in this particular area over the last year and as a result public awareness is greater now than it has ever been. One thing we have very definitely learned, is that we cannot separate energy development from environmental quality. In short we cannot say, let us have all the energy development that this Nation can ever need and leave those areas of the Nation unsuitable for energy development as environmental areas. The relationship between our supplies of clean air, pure water, soil, and minerals are simply too complex for such a simplistic view.

I am very proud that the people of Maryland are now in the process of responding to the need to guard our environmental resources in the context of energy development. This year there are bills in both the Maryland Senate and House to phase out strip mining of slopes over 20 degrees. They are supported by the Governor and the Maryland Department of Natural Resources. This is an example of a State with a long history of both deep mining and strip mining, taking a hard look at what is occurring with respect to its soil and its water and concluding that stripping activities on steep slopes are unacceptable.

Mr. President, I ask unanimoun consent to have printed in the RECORD the recommendations of the State Department of Natural Resources.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

The Department of Natural Resources strongly urges adoption of this bill. As of 1973, there were approximately 27 million tons of coal in Maryland that were strippable; an amount equivalent to one-tenth of the annual national strip mining total. Consequently, Maryland does not have an abundance of strippable coal, and a concerted effort should be made to make the most effective use of it.

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 operation, disturbed areas would be restricted to an absolute minimum. 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. Since very limited mining now occurs on slopes of greater than 20 degrees horizontal, the Department believes that House Bill 452 will result in minimal economic repercussions, while at the same time making substantial achievements in the protection of our resources.

Additionally, this bill would direct strip mining into areas of more gradual slopes, having the effect of preserving coal reserves on steeper grades. It may therefore result in less costly methods of reclamation, concentrating strip mining into areas of easier access and possibly the initiation of more deep mining in the State of Maryland.

Mr. MATHIAS. Mr. President, frankly, in proposing a phaseout on the steep slope, I am guided by two concerns. First, we must care for the deep mining industry. Our Nation relies on the vitality of that industry and will long after strip mining has exhausted that which is strippable. Second, when we talk of coal on the steep slopes, beyond the angle of repose, we refer to a very small part of our resources. So we are not dealing so much with the facet of the energy crisis, but rather with a question of land use. Lost production from a phaseout of steep slope mining can be made up by a minimal increase of production in the deep mines.

It is proper at this point to detail what my amendment would prevent so that Senators can properly consider the benefits and costs. From an environmental standpoint, mountain strip mining is by far the most damaging form of strip mining. Mountain strip mining brings with it severe problems of sedimentation, land slides, water pollution, acid drainage, and disruption of soil and subsurface waters. All of these problems pose very serious threats to the homes and lives of people living in the densely populated mountain valleys below where strip mining has occurred.

Every bit of evidence reinforces the concept that certain strip mining practices cannot be regulated satisfactorily, and, in these instances, the best answer is to prohibit those specific activities. Consider for a moment the 1973 Senate study, "Factors Affecting the Use of Coal in Present and Future Energy Markets," which clearly points to the serious continuing problem of landslides on steep slopes and repeated violations of State regulations:

For all types of mountain strip mining, more than one-third of inspections revealed major violations including: exceeding bench width, operating off the permit area, dumping excessive material over the outflow, and lack of drainage control.

The results of that Senate study are reinforced by a second study, "Design of Surface Mining Systems in Eastern Kentucky," which was the work of Mathematica, Inc., for the Appalachian Regional Commission.

Discussing problems of sedimentation, landslides, or water pollution only tells part of the story. We also have to look closely to see how this very serious, long-lasting, environmental damage will impact upon the economies of the various States. There is no question that mountain strip mining has a decidedly detrimental effect on timber production,

tourism, and industrial development. The Appalachian region is one of the world's finest hardwood timber areas. This is a commodity in extremely short supply. Strip mining, even after reclamation, leaves the land in a state unsuitable for timber growth. This is not the case with deep mining. Let me draw an example from my own State of Maryland. Quite clearly, the highest and 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. As I mentioned earlier, this is a fact recognized by the Maryland Department of Natural Resources as they seek to amend State law in a fashion similar to my amendment to S. 7.

The points that I have just made relate as much to national land use as to energy policy, if indeed those two concepts can be separated. I would like to now discuss more specifically what our energy policy should be as we particularly focus on coal. The demise of the deep mining industry is proceeding at an ever-increasing pace. Since 1966, over 2,400 deep mines have shut down. Production has fallen by more than 84 million tons in Appalachia alone. At the same time, strip mining operations have increased by well over 700 and production by 59 million tons. That is a loss of 19,000 jobs in the mines. But everyone in this Chamber knows, or should know, that strip-mined coal is a finite resource. We only have 45 billion tons left. As we shoot for coal production of over 1 billion tons a year, and 2 to 3 billion in the years ahead, as we get into coal gasification and liquefaction, it is easy to see that, by the end of this century, all strippable coal may be exhausted. In the Department of the Interior study entitled "Energy Research Program," it is predicted that Western strippable coal will all be gone by 1996 and most of the Eastern strippable coal will be exhausted as well. But, while we have 45 billion tons of strippable coal, we have 30 times that much deep minable coal. Even taking the most conservative statistics supplied by the U.S. Bureau of Mines, we find 356 billion tons of deep minable coal as against the 45 billion tons I mentioned earlier. Now that is an extremely conservative analysis of the amount of underground coal this Nation possesses. But even using those most conservative figures, we see a ratio of 8 to 1.

Given these kind of statistics, what would be a rational coal policy? Would one encourage stripping wherever one can physically get the coal out? Would one encourage strip mining on steep slopes where one knows that the final result will include environmental degradation and a possible threat to the safety of the people who live in the valleys below? Would one, in essence, encourage strip mining to grow in leaps and bounds, and thereby guarantee the mass exodus of deep miners from the mines and the closing of those deep mines? Would one do all this when one knows by looking at statistics—the very ones I have quoted; the most conservative statistics available—that massive strip mining is a short-term operation and eventually the deep mines must be opened and expanded and the deep mine labor force rebuilt and expanded? 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 in Appalachia. 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 headlong to strip mining of 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 activities on the surface will make deep coal seams technically impossible to mine.

I have briefly alluded to the exodus of deep miners to other types of employment, but this bears some further analysis. I am convinced that unless we halt this steady exodus of skilled labor, that other Senators will meet in this Chamber years hence to discuss ways of retraining a massive labor force to meet this Nation's then urgent requirement for coal. That retraining will be a very expensive undertaking, but if we act today to ensure a continuing stimulus to deep mining operations, the expense will be avoided.

In the final analysis, I would hope that one lesson would be learned as a result of the current energy shortage. We must plan for the future in our handling of energy. To some the future is tomorrow, to others, it is measured in years, but with regard to energy, the public interest requires that it be measured in decades. We must start with this bill to establish a policy for coal which will respect the land, the air, and the water—the elements which sustain us—a policy which will safeguard the deep mine coal industry so that when the strip mines are exhausted, there will be a viable industry to serve this country.

Mr. President, I reserve the remainder of my time.

Mr. HANSEN. Mr. President, will the Senator from Maryland yield for some questions?

Mr. MATHIAS. I am happy to yield to the very distinguished Senator from Wyoming.

Mr. HANSEN. First, Mr. President, let me compliment the distinguished Senator from Maryland for his interest in this very important and vital piece of legislation.

I would like to believe and I am encouraged to believe by his presence here in the Chamber and by the action that he now proposes that there is a growing awareness, a growing concern, and a desire on the part of people everywhere to understand better and to become involved in legislation of this kind.

I compliment those forces that are responsible for bringing about this kind of concern, this interest, and it certainly is true, as people now demonstrate by their actions, that what happens in the West or what happens offshore is of importance not only to those specific localities, but as well to people everywhere.

I say that, because as the petroleum resources of our country, oil and gas resources, become increasingly difficult to discover and increasingly costly to produce, we know that without the contribution that can come from the Outer Continental Shelf there is likely not to be enough oil and gas to give us that relative independence that we so earnestly desire and desperately seek now, in being able to assert a foreign policy that we think, first, would serve this country best, and second, to assure us of that independence that is reflected in our industry, in our gross national product, that can best be assured by a declining reliance upon unstable foreign sources of supply.

Having said that and having complimented my good friend, the distinguished Senator from Maryland (Mr. MATHIAS), for his interest, I ask him if he has figures that would reflect the amount of coal that is capable of being stripped in our country now that woud be involved under his amendment which phases out the mining of coal on slopes 20 degrees and above, in terms of our national short-range productivity?

Mr. MATHIAS. Before I respond directly to the distinguished Senator's question, I would say that I agree with him, but I think there is a growing awareness, as I said earlier, in the problems of energy and in the fact that it has to come from somewhere, that, in effect, a price has to be paid for energy; that we are going to have to determine together what price we are willing to pay.

This is something in which we have had some experience in the State of Maryland over the years, when I consider that part of Maryland, the Appalachian area, the area to which Maryland Republicans often look, and say:

Raise up thine eyes and lift up thine eyes unto the hills whence cometh thy strength.

We have seen the results of a very tragic abuse of nature.

This amendment is not offered in ignorance of the issues involved. This amendment is offered, because we understand the issues that are involved. We understand the need for coal. We understand the need for energy. We understand that the price will have to be paid. We believe that that price ought to be set at a reasonable level of environmental cost.

Answering the Senator's question directly, I refer to the report of the Committee on Interior and Insular Affairs pursuant to Senate Resolution 45, the national fuels and energy policy study, where, on page 52, there is this reference:

As indicated in the tables, a large percentage of surface mined coal now comes from steep slopes. Indeed, only 14 percent of surface mining in Appalachia is on slopes of less than 10°, 16 percent is on slopes of 10° to 15°, 18 percent on 15° to 20°, 18 percent on 20° to 25°, and 33 percent over 25°. If a 15° slope limitation were applied immediately, it would affect:

70 percent of Appalachian surface mining production.

39 percent of total U.S. surface mining production.

20 percent of total U.S. production.

If a 20° slope limitation were applied immediately, it would affect:

51 percent of Appalachian surface production.

29 percent of total U.S. surface mining production.

14 percent of total U.S. production.

Those figures are impressive figures. They might even be frightening figures to the Senate if we did not consider that those figures only applied to about 1 percent, a single 1 percent, of the total national reserves. So while the percentages seem large, the absolute tonnage of coal in the national reserves that are to be affected is about 1 percent.

Mr. HANSEN. I thank my distinguished colleague.

Referring to the same document that he has called attention to, on page 139, the last paragraph on that page, if the Senator would like to refer to it, "Impact on Production," I find this language:

As can be seen in tables 1 to 4, the loss of production as a result of a 20 degree slope prohibition ranges from about 17 to 18 million tons per year depending on the impact scenario used, compared to a range of 42 to 108 million tons annually with a 15 degree slope limit. The impact is most severe in central Appalachia—

I would hope that I might have the attention of the Senators from that part of the country, those in the Chamber at the present time, because I am certain they will be interested:

The impact is most severe in central Appalachia, which has the highest quality low sulfur coal, with a minimum 80 percent of the loss coming from this area. The reason for an increase in production in the Huntington-Ashland EA in the low impact case is that no surface production is lost, while underground mining is assumed to grow by 10 percent.

I do not know as well, certainly, as does the distinguished Senator from Maryland, what the attitude of people is in that State. I have read, as I am certain he has, reports of meetings and protests being launched by different groups in the State of Virginia over the rising electric utility rates. I am certain that the distinguished Senator from Maryland is aware that the cost of compliance with environmental standards is indeed not a small one.

President Luce, of Consolidated Edison in New York, told me several months ago that his company, which had to pass up a stock dividend for the first time in its nearly century-old history, as I recall—and I may be in error on the length of time that that company has been in operation—was occasioned in part by the fact that 17 percent of their total costs came about from the requirement that they meet certain environmental standards. Among others was the requirement that they move toward minimizing the raising of the temperature of rivers that have been used historically to cool the towers where steam fired generation operations occur.

There was also a great reluctance in that State, as we know, expressed with respect to the addition of nuclear reactors. I think it would be fair to say that that reluctance, that fear, that concern pervades not only the State of New York but, indeed, much of America. People do not know as much as they need to know, and certainly not as much as they would like to know about the dangers, real and suspected, that may result from nuclear reactors.

My next question is would the people, as nearly as the Senator knows, in the great State of Maryland willingly accept the added cost that would be occasioned by denying this 16 to 18 million tons of coal annually, low-sulfur coal? That is the kind of coal that certainly has to be used in heavily populated States. Would the people in his State be willing to pay the extra costs that would be necessary and would be imposed by this prohibition?

Mr. MATHIAS. I believe the Senator knows that we are all in the same boat. High costs of utility rates are affecting Americans everywhere. People in Maryland are just as distressed by the high utility rates as any other place.

The Senator sets up for us an equation which is just not realistic. The Senator talks about the increased cost of taking some care with regard to the world in which we live, without considering the cost of not taking care.

To use a totally different situation as an analogy, when we think, for example, of the cost of health care in the Los Angeles community as it is affected by air pollution problems there, I think we probably would come out on the side of saving money by being concerned about the air quality, which is causing people to have heart attacks, heart diseases, pulmonary diseases, and other health problems, which not only shortens lives but which, from a purely cold hearted economic point of view, is decreasing economic productivity.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. On my time, Mr. President, I will finsh my answer.

The PRESIDING OFFICER. The time has all expired under the rules.

Mr. METCALF. Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifteen minutes.

Mr. MATHIAS. Mr. President, I reserved my time. I thought I was answering only the——

Mr. METCALF. I am delighted to yield time. I want to be sure to reserve a few minutes, but I will be delighted to yield time either to the Senator from Wyoming to continue this dialogue, or to the Senator from Arizona, who wants to respond.

Mr. MATHIAS. Mr. President, I thought I had reserved my time, and I thought I was responding on the time of the managers.

Mr. METCALF. Nobody asked me to reserve time. I have time and I am delighted to yield time so that there will be a complete and comprehensive debate on this bill.

Mr. MATHIAS. If I could just have enough time to finish my response to the question posed by the Senator from Wyoming.

Mr. METCALF. How much time does the Senator from Maryland desire?

Mr. MATHIAS. Two minutes.

Mr. METCALF. I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. The precise question asked by the Senator from Wyoming was what had to be faced by the people of Maryland. The Maryland Department of Resources came up with this conclusion:

In weighing the benefits to be gained against the loss in restricting strip mining to a very limited area, we believe that the preservation of our natural and scenic resources far outweigh our economic losses. Since very limited mining now occurs—

We are talking, remember, about 1 per cent of the national reserves, and this is a very limited area—

The department—

That is, the Maryland Department of Natural Resources—

believes that this legislation will result in minimum economic repercussions, while at the same time representing a substantial achievement in the protection of our resources.

This is a balanced, considered view which the people of Maryland have come up with.

Mr. HANSEN. Mr. President, are we constrained insofar as time is concerned?

Mr. METCALF. May I have control of my time, so that I may have some time to respond to the Senator? How much time does the Senator from Wyoming desire?

Mr. HANSEN. I am just going to raise a parliamentary inquiry, first, if I may.

Mr. President, are we constrained, insofar as time is concerned, by an earlier unanimous-consent agreement to vote at a time certain?

The PRESIDING OFFICER. We are constrained both by the time agreement to vote and by the unanimous-consent agreement to limit debate on each amendment to 30 minutes.

Mr. HANSEN. What is the time for the final vote?

The PRESIDING OFFICER. Three p.m., with debate to begin at 2 p.m.

Mr. HANSEN. Mr. President, I ask unanimous consent that the time for the final vote may be moved to 4 o'clock this afternoon, rather than 3 p.m. What is being said is very important.

Mr. METCALF. Mr. President, I am constrained to object. When the unanimous-consent request was propounded, we arranged for 15 minutes for each side on each amendment—30 minutes total on an amendment; then there was an agreement that we had an hour to use for final debate.

As I understand it—and the Chair will correct me if I am wrong—that 30 minutes on a side, with an hour for final debate, can be yielded to anybody as an additional time on each amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. METCALF. Mr. President, if this is coming out of my time, it is quite satisfactory.

I am prepared to take that 30 minutes and yield it at such time as is necessary, but I will object to moving the time of the vote to a period later than 3 o'clock.

Mr. HANSEN. Mr. President, will the

Senator from Montana yield me 5 minutes?

Mr. FANNIN. Mr. President, a parliamentary inquiry.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. METCALF. Mr. President, I yield to the Senator from Kentucky for a parliamentary inquiry.

Mr. FORD. Mr. President, do I correctly understand that we have 30 minutes for each amendment, 15 minutes to a side?

The PRESIDING OFFICER. That is correct.

Mr. FORD. And the time of the Senator from Maryland has expired?

The PRESIDING OFFICER. That is correct.

Mr. FORD. The distinguished floor manager on this side of the aisle has 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I would like to have 2 minutes, if the Senator from Montana will yield.

Mr. METCALF. I promise to yield later and to reserve time for the Senator from Kentucky.

Mr. FANNIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FANNIN. The Senator from Arizona has time on the bill, as I understand, of 30 minutes.

The PRESIDING OFFICER. The Senator has 30 minutes.

Mr. FANNIN. I yield 4 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. I thank the Senator from Arizona.

Mr. President, I wanted to point out that I do not argue at all and I do not disagree at all with the points made by the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, will the Senator from Wyoming yield so that I may request the yeas and nays?

Mr. HANSEN. I yield.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, the point I want to make is simply this: We all want to accomplish the goals that the Senator from Maryland has in mind. I do not think there is any question about that. But I am aware that there is great concern on the part of the people in the East with rising costs that are occasioned increased fuel costs, utilities, heating and everything else. I am also aware that bills have been introduced—I think one was introduced in the State of Maryland, but I am not sure about that; etiher Maryland or Virginia, as I recall—to freeze utility rates at a certain level for a fixed period of time.

My point is that we cannot have it both ways. I have felt all along that the one failure, the significant failure, on the part of Members of Congress was that they go out and tell people they are going to give them everything they want and that it is not going to cost anybody anything. It is going to cost, and this is a case in point.

It is true that these strippable reserves on the 20 percent or more slopes constitute only 1 percent of the total coal reserves. But these coal reserves that are included in the 100 percent are going to be a long time in being developed; and it is going to occasion more cases of black lung, and it is going to occasion more subsidence problems.

It does not matter how you remove the coal. There is going to be cost one way or the other. Simply to say that we are going to underground mine does not mean we are going to get rid of all the problems. The opposite is true. It will create problems.

I simply say to the Senator from Maryland that the fact is that people are concerned about the cost of electricity, they are concerned about the cost of heating, and this will have an impact on it.

My good friends from West Virginia have said that if they put this bill in, it is going to bring about the immediate unemployment of more than 7,000 to 8,000 people in one State alone. So we should not be too cavalier in saying what we think we would like to have adopted, without looking at the consequences of that.

I, too, would hope, and I think this bill guarantees—I repeat, this bill guarantees—that whatever is done in the way of surface mining must be accompanied by adequate reclamation. With that assurance, I must say, for what I think are good reasons, that I will be voting against the amendment to prohibit mining on slopes of 20 degrees or more, because we have the requirement in the bill that if the lands cannot be reclaimed, they cannot be mined.

I yield back the remainder of my time to the distinguished Senator from Arizona.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Montana is recognized.

Mr. METCALF. I yield myself 2 minutes.

Mr. President, the Senator from Wyoming inquired of the Senator from Maryland if, in his opinion, he thought the people of Maryland would acquiesce to additional costs incurred because of the bill. I want to remind the Senator from Maryland——

Mr. MATHIAS. Wait a minute.

Mr. METCALF. Was that not the question?

Mr. MATHIAS. I said, if the Senator will yield so that I can respond——

Mr. METCALF. I am delighted to yield. But did not the distinguished Senator from Wyoming ask whether, in the opinion of the Senator from Maryland, the people of Maryland would consent to the increased utility rates brought about by this bill? That was the question, was it not?

Mr. MATHIAS. And the answer was——

Mr. METCALF. I did not say anything about the answer. Will the Senator let me go forward? The question was, Would the people of Maryland consent? Will the Senator admit that that was the question?

Mr. MATHIAS. I will admit that that was the question.

Mr. METCALF. Very well.

Mr. MATHIAS. But I am not——

Mr. METCALF. The answer to that question is that under this bill the people of Maryland have a perfect right to say that they will let their slopes be mined at 19, 20, or 25 degrees. In their legislature, they can pass any restriction they want on the slope. If they want to consent that they will only mine a small portion of the hills of Maryland, they have a perfect right to consent to that. That is up to the people of Maryland. If they want to acquiesce, they can go to their legislature and do it.

This bill says that we will comply with environmental standards while mining on those slopes. But we say that we have strict environmental standards for the rest of the Nation, that we do not feel there is any distinction in potential impact between 19 and 20 degrees, if they comply with those strict environmental standards. We say that it is up to the various States to make additional application of those standards.

Mr. MATHIAS. Mr. President, will the Senator yield me about 30 seconds to comment?

Mr. METCALF. I will be delighted to yield at the present time.

Mr. MATHIAS. I think we all understand that costs are involved. We all understand that there are costs involved if we do set standards and there are costs involved if we do not set standards. But it is interesting that in the coal supply task force study by the Federal Energy Administration, published in January of this year, it is pointed out that the price of coal is not going to be determined so much by the cost of production, the cost of mining, as it is going to be determined by the somewhat extraneous factor of the price of oil. When the people of Maryland pay their electrical bills the amount will in the final analysis be based on the cost of oil.

I further say that there is another long-term consideration which is going to affect costs. Yes, we can go to strip mining. We can strip off all the strippable coal in the next few years that is easy to get at.

Mr. METCALF. We can if we pass this bill.

Mr. MATHIAS. That we can get at easily and, we think, cheaply. But what are we going to do to what is the real coal reserve of this country? That is the coal which is available only by deep mining. I would not presume to say to the manager of this bill very much about where the coal reserves are. The distinguished Senator knows. He knows that deep mining is the only way to get it.

If we encourage a lot of quick strip mining, we are going to discourage the development of our deep mines and, in the long run, we are going to decrease the amount of energy available to the

people of this country and increase the cost of that energy.

Mr. METCALF. I cannot see that I concur with that.

Mr. President, I yield myself such time as I need to respond.

I concur with the Senator from Maryland that we should encourage deep mining. I certainly agree with him. I just cannot see the relevance of that argument to the amendment he has presented.

Mr. HANSEN. Will the Senator yield me 15 seconds?

Mr. METCALF. Surely.

Mr. HANSEN. Mr. President, the distinguished Senator from Maryland may not know that the Metcalf-Hansen amendment gives to every State, including the great State of Maryland, the right to prohibit coal mining on a 5-percent slope if it wants to. Our point is that that restrictive type of prohibition has no place in this national legislation.

Mr. FANNIN. Mr. President, I yield myself 2 minutes on the bill.

Mr. President, I say to the Senator from Maryland that I do not think he realizes how devastating this bill is. Some of the figures he has utilized are very misleading. When we are talking about how much coal is estimated to be in the United States, that is one figure. When we are talking about how much coal can be mined, that is another figure. He acts as if strip mining does not amount to anything. Let us look at the figures.

I will admit that the demonstrated coal reserve base of the United States is 297 billion tons from underground mining and 137 billion tons from strip mining. So the figures are entirely different from what he has estimated.

Let us look at what he is doing. What does the——

Mr. MATHIAS. Will the Senator tell me the source of those figures?

Mr. FANNIN. The Bureau of Mines statistics. They are in this book, on page 240.

Mr. MATHIAS. That is the same report from which I read.

Mr. FANNIN. It is perfectly all right. The Senator is using different figures. He is using a total amount of coal and the Senator knows that we are wasting half the coal when we go to underground mining. I think the Senator knows that. It cannot all be mined. The tunnels have to be provided and so forth.

I am informed that this is the report on S. 7 that I am referring to. This is the report on the present bill I am referring to, and the report that the Senator from Maryland was referring to pertained to S. 45.

To go on further, let us look at what the future holds, because we are dependent more on strip mining from the standpoint of our economy to meet the crisis that we face——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FANNIN. I yield myself 2 more minutes.

Let us look at what is actually happening. This is from George F. Neilsen, McGraw Hill Publications, on his survey. They are very reliable. Presently on the books of 72 producing firms is 236.6 million tons of new coal mining capacity for the years through 1983. There are plans for 127 mines, from a relatively small 100,000-ton annual operation to larger operations—but it is huge mines that are involved. These figures provide what I am talking about. Surface mining methods account for about 60 percent of the new capacity that is going to be mined—that is what we are interested in—or 141,865,000 tons. This will be produced by 38 mines—understand that, 38 mines. The largest number of mines are underground mines, 87 in all. They will be mined by deep mining methods and will have a combined capacity of 94 million tons, or about 40 percent of the total.

I think what we have to realize is that we are talking about a problem that we face in the immediate future and over the next 10 years. This is up to 1983. So if we are going to provide the energy at a rate at which it can be afforded, if we are going to keep the lights from going out, we had better protect the strip mining industry. I am talking about protecting them by prohibiting mining unless the land can be reclaimed. I am not talking about devastating any land. I am talking about providing, in many instances, better land than what was there before the mining started.

I remind the distinguished Senator from Maryland that what he is asking us to do would be almost like asking for bankruptcy. I think that it is something that we can absolutely not afford. We cannot take a chance of having to import a greater amount of oil.

He is talking about prices. We do not know what the price is going to be in the future, but we do know that strip mining is less expensive than underground mining. It is safer; it is better in every respect, and I think we should go forward with a bill that will provide us the opportunity to mine surface coal.

Mr. METCALF. Mr. President, I yield to the Senator from Tennessee 3 minutes. If my time has expired on the amendment, I yield it on the bill.

The PRESIDING OFFICER. The Senator has 2 minutes remaining on the amendment.

Mr. METCALF. I yield 2 minutes. If the Senator needs more, I shall give him more.

THE STEEP SLOPE BAN

Mr. BAKER. Mr. President, I thank the distinguished manager of the bill for yielding so that I may make brief remarks in opposition to the amendment offered by the distinguished senior Senator from Maryland.

Mr. President, I sympathize with the environmental concerns which have motivated the Senator from Maryland (Mr. MATHIAS) to offer this amendment to prohibit surface mining for coal on steep slopes. Nowhere is the environmental disruption from improperly reclaimed strip mining more devastating than on steep slopes. The hills of Appalachia bear miles upon miles of scars in testimony to this fact. And anyone who has seen these mountains or talked to the people who live in them can understand the motivation of those who would ban such mining.

But we are now approaching the enactment of a bill which contains standards which will insure that future mining in these mountains does not leave them barren and desolate. The standards of this bill require careful restoration of these mountains—their contour, their drainage systems, and their vegetation. And where this restoration cannot be accomplished, no permit to mine can be issued.

Mr. President, reclamation can often be accomplished on slopes substantially in excess of 20°, which is the definition of steep slope used in S. 7. In Tennessee the best reclamation ever undertaken—two back-to-contour demonstration mines funded by the TVA—were located on slopes of approximately 26°. I am sure that there are other areas in the country where mining on slopes under 20° can not be accomplished. The environmental question property put is not "what is the slope of the mine?" but "can it be fully and successfully reclaimed?"

That is precisely the focus of S. 7 and therefore I oppose this amendment.

But there are additional reasons why I intend to oppose this amendment which I would state briefly:

In many areas of the Appalachian mountains, benches on steep slopes have been stripped with equipment less sophisticated than is presently available to mine operators or at a time when it was uneconomic to move much overburden. Most of these mines were given little post-mining treatment and remain open, barren pits. A substantial portion of the mining in the State of Tennessee over the past several years has been restripping of these benches.

Under the provisions of S. 7, restripping of these steep contour mines will result in a substantial environmental improvement. If this steep slope mining is banned many of these abandoned benches may never be repaired.

There are reclamation programs in S. 7 which will help with this orphan mine problem, but they are modestly funded and much of their funds are directed toward areas from which the severance fees are derived. If steep slope mining is banned, these apportioned funds would be denied to steep slope communities.

For these reasons, Mr. President, I must oppose the amendment of the Senator from Maryland.

The PRESIDING OFFICER. The Senator's 2 minutes are up.

Mr. METCALF. I yield to the Senator from Kentucky 2 minutes on the bill.

Mr. FORD. Mr. President, there are just a couple of remarks I would like to make.

I hope that the fine State of Maryland does pass some legislation to improve its strip mining and reclamation program. Other States have been doing that for some time. Our colleague from Maryland has emphasized that only 1 percent of the reserve would be affected by his amendment, but we are not talking about reserves; we are talking about production.

In my State alone, 70 million tons was produced in 1974 by strip mining of this coal. This country and this administration, and those who are fearful about our

energy problems and the country's future, are begging for West Virginia coal and east Kentucky coal, with its less than 1 percent sulfur content.

I believe this bill gives greater authority and direction in the reclamation area. I think it also gives us an opportunity to develop reclamation programs that are so vital in this particular area. Our State, for example, is spending millions of dollars in the effort to develop new methods of reclamation. NASA is in the arena of coal extraction, to find better ways and better methods to develop the extraction of coal and its reclamation.

I might point out, too, that where they are saying that deep mines are important and that is where the reserve is, I agree; but I must remind my colleagues that it takes some $30 million to open a deep mine, and in this era of our economy, I wonder, even though coal prices are high, how many can develop a $30 million project. There are shortages to meet which we in the 93d Congress have worked hard to find the material so that we might extract this valuable material from the ground.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. METCALF. I yield the Senator 2 additional minutes.

Mr. FORD. I am fine. I only wanted to say I oppose the amendment.

I yield back the remainder of my time.

Mr. METCALF. Mr. President, I yield 5 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I have great esteem for my distinguished colleagues from Maryland and I am never eager to take issue with them.

Our States share a common boundary and many common interests. The topography of our States, however, is not similar and it is upon this basis that I must differ with the Senators from Maryland.

The amendment proposed by the Senators from Maryland would ban—flatly and unequivocally prohibit—surface mining of coal on any slopes of 20 degrees or greater.

In Virginia, virtually all of the surface-mined coal comes from slopes of greater than 20 degrees.

Of Virginia's known strippable reserves—estimated at 226.86 million tons—194.8 million tons of low-sulfur coal lies under slopes of greater than 20 degrees.

That is over 85 percent of the coal in Virginia available for surface mining.

And Virginia's surface mining industry produces almost one-third of the State's total production.

I am told by knowledgeable sources that S. 7, as presently drafted, will virtually end surface mining in Virginia.

The amendment by the Senators from Maryland would leave no room for doubt, no opportunity to assess the benefits of technology or for what little administrative flexibility might be employed by the bureaucracy in implementing this law. It would make a bad proposal worse.

Mr. President, I think it is significant that the committee report for 1973 includes this statement:

If a 20-degree slope limitation were applied immediately, it would affect 51 percent of Appalachian surface production, 29 percent of total U.S. surface mining production, and 14 percent of total U.S. production.

I think the reasons given by the Senators from Maryland are fine ones—for the people of Maryland. That is why I have said in the past—and say now—let us not preempt the States with this legislation.

Maryland and Virginia have different problems—and different situations entirely—with respect to surface mining.

Virginia has a strong law—a good law—on surface mining and land reclamation.

In opposing the Senators from Maryland on this amendment, then, I am really asking them to join me in seeking a Federal law on surface mining which will not stifle State initiative but will, instead, permit flexibility and allow the States to regulate and control these mining practices in a manner most consistent with the health and welfare of the people of that State—a task entrusted primarily to the State legislatures.

I hope the Senate will vote to disapprove the amendment offered by the Senator from Maryland. I yield back the remainder of my time to the distinguishel Senator from Montana.

The PRESIDING OFFICER (Mr. BUMPERS). All time on the amendment has expired. The question is on agreeing to the amendment (No. 91) of the Senator from Maryland (Mr. MATHIAS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Wyoming (Mr. MCGEE), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further anounce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) and the Senator from Arizona (Mr. GOLDWATER) are absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 28, nays 64, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—28

Beall	Humphrey	Proxmire
Biden	Javits	Ribicoff
Brooke	Kennedy	Schweiker
Case	Mansfield	Stevenson
Chiles	Mathias	Stone
Clark	McGovern	Tunney
Cranston	Mondale	Weicker
Culver	Muskie	Williams
Hart, Philip A.	Packwood	
Hathaway	Percy	

NAYS—64

Abourezk	Burdick	Fannin
Allen	Byrd, Harry F., Jr.	Fong
Baker	Byrd, Robert C.	Ford
Bartlett	Cannon	Garn
Bayh	Curtis	Glenn
Bellmon	Dole	Gravel
Bentsen	Domenici	Griffin
Brock	Eagleton	Hansen
Buckley	Eastland	Hart, Gary W.
Bumpers	Haskell	Hartke
	Hatfield	Helms
	Hollings	Hruska
	Huddleston	Inouye
	Jackson	Johnston
	Laxalt	Leahy
	Long	Magnuson
	McClellan	McClure
	McIntyre	Metcalf
	Montoya	Moss
	Nelson	Nunn
	Pastore	Pearson
	Pell	Roth
	Scott, Hugh	Scott, William L.
	Sparkman	Stafford
	Stennis	Stevens
	Talmadge	Thurmond
	Tower	Young

NOT VOTING—7

Church	Morgan	Symington
Goldwater	Randolph	Taft
McGee		

So Mr. MATHIAS' amendment was rejected.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

The Senate reassembled at 1:30 p.m., when called to order by the Presiding Officer (Mr. TOWER).

The PRESIDING OFFICER. The Chair suggests the absence of a quorum, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

At this point, Mr. MANSFIELD assumed the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 88

Mr. TOWER. Mr. President, I call up my amendment No. 88 at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) for himself and Mr. BARTLETT proposes an amendment on page 48, between lines 7 and 8, insert the following:

(e) the provisions of this title shall be of no force or effort within the boundaries of any State in which there shall be enacted a bill or resolution which provides that—

(1) it is the will of the people of such State that the provisions of this title shall be of no force or effort within the boundaries of such State; and

(2) that it is the intention of the legislature of such State that the provisions of this title shall be of no force or effort within the boundaries of such State.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged to either side.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I would like to call attention to a clerical error. In the printing of my amendment on line 5 the word "effort" should be the word "effect," and I modify my amendment to delete the word "effort" and substitute therefor the word "effect."

The PRESIDING OFFICER. The amendment will be so modified.

There is a similar error on lines 2 and 9.

Mr. TOWER. I thank the Chair for calling my attention to that, and I also modify it by deleting the word "effort" on lines 2 and 9 and substituting therefor the word "effect."

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 48, between lines 7 and 8, insert the following:

(e) the provisions of this title shall be of no force or effect within the boundaries of any State in which there shall be enacted a bill or resolution which provides that—

(1) it is the will of the people of such State that the provisions of this title shall be of no force or effect within the boundaries of such State; and

(2) that it is the intention of the legislature of such State that the provisions of this title shall be of no force or effect within the boundaries of such State.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered.

Mr. TOWER. Mr. President, my amendment is very simple. It has been dubbed the States' rights amendment.

I would like to ask unanimous consent that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as a cosponsor.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I think the States should have a degree of control over their natural resources. Historically it has been recognized that it is within the purview of the police power of the State to regulate and pass laws appropriate to the development of natural resources.

In Texas for many years we have had a proration law which allows the railroad commission of the State of Texas to determine the allowable production per month for oil wells in our State. This proration program has, I think, been a boon not only to Texas but to the country because it has prevented needless waste of petroleum resources.

What I propose to do here in my amendment is to simply allow States to opt out of the provisions of S. 7. It seems to me altogether reasonable that we should not require the State of Arizona or the State of Montana or the State of Virginia or the State of Texas or the State of Iowa to be governed by what people from other States think should be proper policy relative to strip mining.

We have extensive coal resources in my State that we would like to produce and I think that if the people, as represented by their legislatures in their respective States, are willing to accept preventing risks to the environment or to the esthetic value of the land, if the people are willing to risk that in their respective States, it does not seem to make much sense that they should not be allowed to do so, because such a thought would be unseemly by somebody from New England.

I would point out that what the bill does, really, is to force the State into compliance, to arbitrarily establish Federal standards that have no flexibility and that do not take into consideration regional differences or interests.

I would point out that some 32 States already have strip mining legislation and some 25 States have revised or updated their statutes in this matter since 1970.

The legislature of my State has deliberated on this matter before and is expected to again. I think that the people in their capacity as citizens of their respective States, living with producing and marketing their resources, should have the opportunity to have their will reflected in government at a lower level and at a level that is more responsive to their own needs, their own desire and their own aspirations.

I, therefore, hope that the Senate will accept this amendment that I have offered.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. TOWER. I yield 3 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to support the amendment offered by the distinguished senior Senator from Texas. It seems to me a very appropriate one.

We have 50 States in this great Nation of ours, all of them or most of them have entirely different topographical situations. Most of them differ greatly, one from another.

We have such States as the great State of Alaska, which is so totally different from the great State of Hawaii, and even in the continental United States there are varying conditions geographically in all of our 48 continental States.

For us to sit here in Washington and attempt to enact legislation on a preconceived basis as to what would be best for all of our 50 States seems to me to be somewhat unreasonable.

This proposal offered by the Senator from Texas would permit the people of each State, acting through their own legislatures, to determine whether they feel it is in the best interests of their particular State to come under the provisions of S. 7. If the people themselves speaking through their legislatures should conclude that the conditions in their State are such that they would prefer to have different criteria and regulations than provided for by S. 7, if the amendment offered by the Senator from Texas is approved they would be permitted to have such freedom of action.

The Commonwealth of Virginia has a good law on surface mining and mined land reclamation. It is sound and it is strong. I believe the Commonwealth of Virginia should be allowed to determine whether its own law is better suited to the needs of Virginia and the welfare of Virginians than this Federal legislation.

I think this proposal by the Senator from Texas is a reasonable amendment and I hope the Senate will support it.

Mr. METCALF. Mr. President, this amendment, of course, will destroy the purpose of the whole bill. This amendment is calculated to reduce and even eliminate the minimal Federal standards that we have established by this bill, and when a State wants to destroy its land

and its resources, it will go ahead and do so.

Too long have we permitted States to permit destruction of their mineral resources by strip mining, surface mining, dredging, and so forth. When we drive back and forth and fly over this United States we see the scars of the mining companies and the dredging companies, and their operations.

So we have to have minimal standards.

No, this is a national bill. This is a bill that has taken into consideration the mountain tops of West Virginia, the prairies of Montana and Wyoming, the deep and fertile soil of southern Illinois and Ohio, and the sands of New Mexico and Arizona.

We have had to tailor this bill to the various geographic and economic problems all over the United States. The Senator from Wyoming (Mr. HANSEN) and I have insisted that this be a minimum bill, minimum to a whole national program. Now if a State wants to have higher standards the State can go ahead and have higher standards and the Federal law will not prevent this and these higher standards will apply even on Federal property, in those States.

So if some State wants to say they will not mine coal by strip mining under this bill, the Bureau of Land Management lands and other Federal lands, with coal under them will not be surface mined in that State.

But this amendment would provide that if some State does not care, or the mine owners have come in and they have destroyed the land already so that they leave permanent scars on the whole landscape, there would be no Federal control, and could be any Federal interference to protect the citizens of that State.

Believe me, this is a Nation, and the people of New England do have a right to come out and see a landscape in the State of Montana that has not been destroyed and buried by dredges and coal mining operators so that it is destroyed forever, and these operators will destroy this land for 500 years if we do not prevent them by adopting the minimum standards in this bill. This amendment will destroy the bill we have here.

Now, I notice that the Senator from Texas is perfectly willing to accept the Federal aid and the Federal grants that are provided in other parts of the bill for reclamation of lands, and so forth. All he wants to do is say is that if a State wants to destroy its whole landscape for 500 years, it ought to be able to do so.

Too long in this country we have said that, so that we have the scars in West Virginia, in Kentucky, in Pennsylvania, and in the West. This bill is to try to stop that. We have to stop it and we have to stop it with at least the very minimum standards we have established in this legislation.

Again I repeat, the amendment of the Senator from Texas will destroy this bill and I urge that it be rejected.

Mr. FANNIN. Mr. President, I certainly cannot disagree with the distinguished Senator from Montana, the manager of the bill, about what has happened in the past. But fortunately, that is mostly in the past and we do not see today those same techniques which have been so devastating to the lands of Appalachia and other areas of the country, because 32 States have already enacted legislation requiring reclamation of surface mined land.

At least 25 of those States have updated or enacted new surface mining reclamation laws since 1970. These laws, Mr. President, are tailored to meet the peculiar and specific climatic, geologic, geographic, chemical, and other conditions required by that particular State. To add another layer of regulation, which the Interior Department estimates will cost the taxpayers $90 million annually in administrative costs, is inappropriate in this inflationary era. This, of course, does not include the approximately $200 million annual, additional, inflationary cost burden which will result from the "excise tax" on coal.

So, Mr. President, we are not just talking about what has happened in the past; we are talking about the present and the future.

The States around our country that are fortunate in having coal reserves are concerned about what is happening in those States. The distinguished Senator from Wyoming has continually emphasized that he wants good reclamation practices in his State which he is going to insist upon. The Senator from Montana has done the same. They do have good laws and stringent laws in those States.

So, Mr. President, I concur that what has happened in the past has been very unfortunate. I wholeheartedly agree that it is unfortunate the particular States that have had this devastation of lands, did not have legislation years ago. But they were not passed, and the condition exists. We should not condemn the mining of coal for the future, because of what has happened in the past.

As I brought out earlier, Mr. President, we have a potential of 137 billion tons of coal that can be mined by surface mining. This is what we are talking about. We are talking about protecting those lands, but we are also talking about being able to mine the coal. In most instances this is better coal, which is more readily available. Certainly, the facts and figures show that if we project what is going to take place in the future, we will find that we will be dependent upon that coal.

The States are just as desirous of protecting their environment, and protecting their landscape, as the Federal Government and perhaps more so. How can we here in Washington see through the eyes of the people in the different States of this Nation as to just what they want?

Mr. President, I hope that the amendment of the distinguished Senator from Texas will be approved.

Mr. TOWER. Mr. President, what we see here in S. 7 is an expression of Federal arrogance which says that the people of Montana, the people of Texas, the people of Wyoming or the people of Arizona are too stupid, too selfish, or too greedy to protect their landscape against the hazards of the extraction of natural resources.

I believe the people of my State can make just as good judgments—I think they can make better judgments—about what is good for them as the Government here in Washington.

Here we are at a time when we are trying to develop a self-sufficiency in energy, and at this very time we are considering proscriptive legislation that makes it more difficult for us to develop and use sources of energy other than petroleum and gas.

As a matter of fact, we talk about phasing out the depletion allowance. That will be great. That will deny us a great incentive for the exploration of oil and gas in this country just at a time when we are trying to reach self-sufficiency. This is the same kind of legislation that denies incentive and makes it more difficult at a time when we are facing up to the necessity to expand our self-sufficiency. If we fail to do so we are going to find ourselves political hostage to those countries that do supply us with the resources we need.

If the people of New England do not want to site a refinery and do not want drilling off their shores, that is fine. But I do not think we should be told under what circumstances we are going to produce our resources for energy, and told what we are going to be paid for them. This is the type of mentality that I think is pitting region against region in this country. I do not have any desire to see sectional conflict. I believe a way to avoid it is through such measures as the amendment that I have proposed here today.

Mr. President, I yield such time as the Senator from Oklahoma may require.

Mr. BARTLETT. Mr. President, I am very pleased to be a cosponsor of the amendment that is being advanced and pushed by the Senator from Texas.

I think one thing is very clear in the debate about the strip mining bill: It is that throughout the country, obviously, there is a very strong interest in the environment that is reflected in this particular bill. So the interest is not just directed at legislation to be adopted by this body and the other body, and then to be signed by the President, but the interest has been in providing very meaningful legislation at the State level.

There was a move in my own State several years ago——

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. METCALF. How much time does the Senator require? Five minutes?

I yield the Senator 5 minutes on the amendment.

Mr. TOWER. Would the Senator withhold one moment?

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METCALF. I yield the Senator 5 minutes of my time on the amendment.

Mr. BARTLETT. I thank the Senator

from Montana. I may not use all that time.

Mr. President, in the State of Oklahoma several years ago a number of us made an effort to improve the laws requiring reclamation. The desires of the people I do not believe were fully fulfilled with that particular proposal. But, again, another step was made. I think now the laws of the State are reasonably good.

I support this amendment not because I believe that the laws of every State are just what they should be, but I do believe that the people in the States are and have been responsive to the same desires that are reflected in the bill before us.

What concerns me about the bill before us is that I feel it has been approached too much from the idea that anything at all that can be added to the bill to make more strict requirements on mining from an environmental point of view, or from other points of view, is good.

I believe we need a balanced bill. I feel we want to make certain that we do not mine unless we reclaim, and we reclaim to the standards that existed before, or for a use at least as high as before, or even higher.

I believe there is another goal that must be achieved in this proposal, in S. 7. That is within the restrictions of sound and sensible reclamation, which are going to cost quite a bit, that we maximize the mining that can take place by strip mining methods.

I do not think there is much interest or perhaps much charisma in gross national product figures, but I do believe today there is a great interest among a lot of people for adequate energy for this Nation.

I am not speaking about the people of the higher income brackets, because as time goes on they are not going to be demanding or utilizing perhaps any more energy than they are now.

It is very apparent, if you look over the statistics of the last 20 or 30 years, that, as time has gone on, those of the middle- and lower-income brackets have been demanding and have been receiving the utilization of more energy every year. This has taken the form of perhaps another car or a window air conditioning unit—some way of improving their standard of living which utilizes energy.

So when some of us are talking about zero growth in energy and others are talking about rolling back the imports, I do not believe they realize that this is going to be at the expense of employment, and it is going to be at the expense of the hopes of many poor people who are wanting also to benefit from the many advantages of utilizing energy.

I believe that the States have a real feel for the problem of reclaiming strip mined areas, because they are living among those areas that have been devastated. They know that, with their present laws, in virtually every case, they have ample requirements for reclamation. I think the people in those States also realize that we do want to maximize mining within sensible restrictions so that we can fulfill the hope that virtually every person or every group has advanced as the hope for 1985, and that is to double the production of coal in this country. This is the safety valve we have all looked to so far as energy is concerned domestically.

We could look at efforts now being made to increase oil and gas production and receive some satisfaction from the fact that progress is being made, but not enough to even take care of the constant decline in our ability to produce oil and gas. But we say, "Look at coal. We have a 300-year supply; and if we properly program ourselves and create a proper environment for the coal industry, we can make real strides and we can double production in 10 years." Much of this must come from strip mining, and it is not going to happen with this piece of legislation.

The PRESIDING OFFICER (Mr. BUCKLEY). The time of the Senator has expired.

Mr. BARTLETT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana has 6 minutes remaining.

Mr. METCALF. Does anyone else desire time?

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Texas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD: I announce that the Senator from North Carolina (Mr. MORGAN) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) and the Senator from Arizona (Mr. GOLDWATER) are absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 18, nays 78, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—18

Allen	Helms	Talmadge
Bartlett	Hruska	Thurmond
Byrd, Harry F., Jr.	Laxalt	Tower
Curtis	McIntyre	Young
Eastland	Nunn	
Fannin	Scott, William L.	
Garn	Stevens	

NAYS—78

Abourezk	Dole	Javits
Baker	Domenici	Johnston
Bayh	Eagleton	Kennedy
Beall	Fong	Leahy
Bellmon	Ford	Long
Bentsen	Glenn	Magnuson
Biden	Gravel	Mansfield
Brock	Griffin	Mathias
Brooke	Hansen	McClellan
Buckley	Hart, Gary W.	McClure
Bumpers	Hart, Philip A.	McGee
Burdick	Hartke	McGovern
Byrd, Robert C.	Haskell	Metcalf
Cannon	Hatfield	Mondale
Case	Hathaway	Montoya
Chiles	Hollings	Moss
Church	Huddleston	Muskie
Clark	Humphrey	Nelson
Cranston	Inouye	Packwood
Culver	Jackson	Pastore
Pearson	Roth	Stevenson
Pell	Schweiker	Stone
Percy	Scott, Hugh	Symington
Proxmire	Sparkman	Tunney
Randolph	Stafford	Weicker
Ribicoff	Stennis	Williams

NOT VOTING—3

Goldwater	Morgan	Taft

So Mr. TOWER'S amendment was rejected.

AMENDMENT NO. 90

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. I have an amendment, No. 90, at the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an amendment (No. 90).

The amendment is as follows:

(1) On page 24, line 12, strike out the word, "COAL" in the heading of title IV.

(2) On page 38, line 11, add the word, "any" after the word, "from" and before the word, "mining" and add the word, "operation" after the word, "mining" and before the word, "constitute,".

(3) On page 141, line 10, add the clause, *"Provided, however,* That reclamation operations may, as agreed between the Secretary and the Governor of any State pursuant to a 'State program,' be applied to voids and open and abandoned tunnels, shafts, and entryways caused by underground mining for other types of minerals than coal.".

Mr. BELLMON. Mr. President, the purpose of this amendment is to make it possible, under the terms of this act, to close the open shafts that exist in several States and that are a hazard to the life and safety of humans and wildlife. These shafts have not been closed and cannot be closed by any other means that presently exist. The problem is that many of these shafts were opened and abandoned years ago by companies that have long since ceased to exist, and unless we make it possible under this bill to close those shafts, there will be no effort made in most of those cases to see that those hazards are removed.

We have many of these shafts in my own State of Oklahoma. There are many others in adjoining States—in Kansas, in southwestern Missouri, some of them in Arkansas, and the same is true all over the United States.

The purpose of the amendment, very simply, is to make it possible to use the funds under this act to close those shafts. This is just the shafts. We are not talking about reclaiming the land or in any way using large sums of money. We are talking about dedicating the fairly small sums that will be required to remove these hazards on a one-time basis.

Mr. President, I have discussed this matter with the ranking minority member and the author of the bill, and I believe they have agreed that the amendment may have some merit.

Mr. METCALF. Mr. President, I remind my colleagues that the orphan lands provision in this bill is primarily intended to reclaim lands that the coal industry has failed to reclaim in the past.

That does not mean that the people who are charged are the people who are guilty of having abandoned lands.

I do not want us to go to the coal industry and say, "It is up to you to reclaim the land that was destroyed by gold dredges, the silver mining industry, the lead and zinc industry, the iron industry, and so on." I have resisted any amendment that would provide that the coal industry would use the funds to be established under this measure to reclaim lands in other areas than coal.

However, in Oklahoma and some other areas, there are these very dangerous abandoned mine shafts that need to be filled. The amendment of the Senator from Oklahoma would provide that the share of the money that is available, that goes in there, could be used solely for this specific and narrow purpose of plugging the tunnels and taking care of the abandoned mine shafts. I have no objection to expanding the scope of the bill to that limited extent.

Mr. FANNIN. Mr. President, I join the Senator from Montana, and I commend the distinguished Senator from Oklahoma for offering this amendment, which takes into consideration what has happened in the past, the damage that has been done, the safety factor involved, and many other reasons why this amendment should be adopted. I am willing to accept the amendment.

Mr. BELLMON. Mr. President, I thank my distinguished colleagues for supporting the amendment. It will serve a humane purpose, and I think will contribute to the effectiveness of the bill.

I ask unanimous consent that the name of my distinguished colleague from Oklahoma (Mr. BARTLETT) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

AMENDMENT NO. 89

Mr. BELLMON. Mr. President, I call up my amendment No. 89.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposed an amendment numbered 89.

Mr. BELLMON's amendment (No. 89) is as follows:

On page 147, line 4, insert the following new section and renumber the other sections accordingly:

INTERSTATE MINING COMPACT

SEC. 703. (a) In the approval of "State programs," in allotments to "institutes," and in grants to States, the Secretary shall recognize the efforts of the Interstate Mining Compact in gathering and disseminating information and statistics and in coordinating efforts to obtain the most efficient methods of reclamation; and

(b) The Secretary is authorized and encouraged to make contracts and grants to and through the compact and in order to strengthen it as an approach to the solution of mining needs and problems.

Mr. BELLMON. Mr. President, during the time I served as Governor of Oklahoma, I became very much concerned about the lack of conservation laws to supervise the strip mining of coal and other minerals. As a member of the Southern Governors' Conference in 1964 I proposed that we establish an Interstate Mining Compact, to encourage the States to adopt workable conservation laws and attempt to stop the ravishing of the countryside as a result of mining operations.

Since that time, the Interstate Mining Compact has come into being. It now has as members eight of the principal mining States of the Union, and this compact has made significant progress in attempting to deal with the problems of strip mining.

I realize that once this bill is passed, as I hope it will be, and becomes law, the work of the Interstate Mining Compact will not be quite as heavy as it has been in the past. But at the same time, this compact can provide some very meaningful inputs into the Nation's efforts to avoid the kind of depredation of our countryside that we have had in the past. The amendment would simply recognize the efforts of the compact, and allow the Secretary to make grants and contracts through it, in case the Secretary felt that the compact could make a contribution to it.

I am hopeful that over the years this compact can be even more helpful than it has been in the past. For one thing, it may be helpful in getting States to work with their citizens under this act, and getting States to get together to design their State programs in such a way as to save money both for the Federal Government and for the States.

I believe sincerely that the Interstate Mining Compact fulfills a real need, and I hope by means of this amendment to insure its continued effectiveness, and that it will help the States and the Federal Government to develop a more harmonious working relationship, so that we can solve the problems this act was intended to cope with.

Mr. METCALF. Mr. President, I am in full accord with the objectives which the Senator from Oklahoma proposes in section 703(a): the approval of State programs, allotments to institutes, and so forth, including the efforts of the interstate mining compact; and I believe the Secretary or the Administrator should participate in gathering and disseminating information.

But the orphan land funds and other funds are going to be so scanty that it would seem to me to be wrong to expand the areas where grants-in-aid are made, and authorize the Secretary to give the interstate mining compact grants-in-aid in order to assist its independent program.

I would accept the amendment and I would applaud the Senator from Oklahoma if he would strike out subsection b, and just authorize the Secretary to recognize the efforts and assist in disseminating the information gathered by the interstate mining compact. But if he seeks to give grants to those people, expand the grant program, and have additional people entitled to grants, I would oppose the amendment.

Mr. BELLMON. Mr. President, I yield myself 2 minutes.

It was not the intention of the author of this amendment that the amount of money the Secretary would authorize for contracts and grants to the Interstate Compact would be significant. My purpose here was that if there were situations in which the Interstate Mining Compact would be the very obvious and most effective organization or vehicle that the Secretary could use to further the purposes of this act, he would be free to contract or to make grants with the Interstate Mining Compact for the kinds of services that the compact is ideally qualified to provide.

I have no desire in any way to weaken the fund or to take substantial sums of money away from it; but it seems to me that here we have a tool that could be used by the Secretary under certain circumstances, and it was my intention to make it plain in this language that if the Secretary decided to contract with the Interstate Mining Compact, he would be free to do so.

I would hope that my friend from Montana would feel that he can accept the entire amendment, but if he cannot, I would be happy to drop the entire second paragraph, though in my opinion it weakens the amendment to do so.

Mr. METCALF. In my opinion it weakens it, too, but it weakens it enough so that it is acceptable.

Does the Senator so modify his amendment?

Mr. BELLMON. If the Senator will permit, I would like to hear first from the Senator from Arizona.

Mr. FANNIN. Mr. President, I feel that time is of the essence, and I do support the amendment of the Senator from Oklahoma. I feel, however, that since there is a consideration by the distinguished Senator from Montana, the manager of the bill, to accept only the part of the amendment that the Senator from Oklahoma considers very important, I would support Senator BELLMON's position either way that he would like to handle his amendment.

Mr. BELLMON. Mr. President, in order to avoid any delay, and since half a loaf is better than none, and I realize that a vote on this matter probably would not result in my favor, I modify the amendment by striking subsection b.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BELLMON's amendment (No. 89), as modified, is as follows:

On page 147, line 4, insert the following new section and renumber the other sections accordingly:

INTERSTATE MINING COMPACT

SEC. 703. (a) In the approval of "State programs," in allotments to "institutes," and in grants to States, the Secretary shall recognize the efforts of the Interstate Mining Compact in gathering and disseminating information and statistics and in coordinating efforts to obtain the most efficient methods of reclamation.

Mr. BELLMON. I yield back the remainder of my time.

Mr. METCALF. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amend-

ment (No. 89) of the Senator from Oklahoma (Mr. BELLMON).

The amendment was agreed to.

Mr. BELLMON. Mr. President, I ask unanimous consent that the name of my colleague from Oklahoma (Mr. BARTLETT) be shown as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. Fannin) proposes an amendment on page 152, line 7, strike all through line 6, page 156.

Mr. FANNIN. Mr. President, this amendment is a very important one. The bill that we passed last year, S. 425, had a similar amendment which was objected to strenuously by the administration. We have passed legislation this year that takes care of the need that this amendment addresses.

What does this amendment do? The Secretary of Labor shall make grants to any individual who loses his job in the coal-mining industry due to closure of a mine which is a direct result of the administration and enforcement of this act.

How do we interpret that? That is where the difficulty comes in. Administration and enforcement of this act is a very complicated procedure. This unemployment provision would cause, I think, unfair discrimination among classes of unemployed persons, would be difficult to administer and would set unacceptable precedents, including an unlimited benefit term and labor force attachment.

This year we passed a $2 billion package; during the last Congress we passed two acts to update unemployment compensation.

So it certainly does not seem advisable to confuse the issue by having another stipulation in this bill covering unemployment assistance. Certainly we want to take care of the unemployed, but we can, through existing laws, in the bill that was passed this year and last year.

Now, the proponents of this legislation argue that we will not have unemployment as a result of the legislation we are passing, so why do we have need for this particular section? They argue that additional jobs would be created; that we will have a great deal of work on reclamation and, consequently, a great deal of new work that would provide new jobs.

So, Mr. President, I feel that it is highly essential that we delete this particular section from the legislation.

I reserve the remainder of my time.

Mr. METCALF. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the section to which the able Senator from Arizona (Mr. FANNIN) directs our attention is 708 which involves the employment impact of this measure and unemployment assistance.

As we read the report we will note that there are certain views expressed by the Members, and I am wondering if there was any minority view on section 708. I ask my distinguished colleague who has just spoken if this issue was addressed by him as the bill was reported from the Committee on Interior and Insular Affairs?

Mr. FANNIN. The answer to the question is, no. The Administration is on record as far as their position on the bill and the views are, I think, very clear as to the objections that the Senator from Arizona has in mind.

Mr. RANDOLPH. It is not my intention to criticize the Senator. I was only asking as a point of information. The pending amendment comes in the nature of a motion to strike, thus expressing opposition to section 708 which was not previously expressed in the reported minority views. Is that correct?

Mr. FANNIN. The Senator is correct as far as his information is concerned. But the Senator from Arizona did support the deletion of this provision in the committee, and a vote was taken. He did vote for deletion of this particular stipulation.

Mr. RANDOLPH. I appreciate that information. For the moment, I would like to ask a further question: What was the vote in the committee on the deletion of the section referred to in the amendment

Mr. FANNIN. I would say to the distinguished Senator from West Virginia, to my knowledge or to the best of my knowledge, it was not a recorded vote. It was a voice vote.

Mr. RANDOLPH. I thank my colleague.

I direct attention to page 227 of the report. I shall not read all the language. This provision would give the Secretary of Labor the authority to make grants for assistance to individuals who—and I underscore "who"—lose their jobs in the coal mining industry as a direct result of the closure of an operation which closed as a direct result of the administration and the enforcement of this act.

The report goes on to indicate that those persons who are not eligible for unemployment assistance or who have exhausted all their rights to regular, additional, and extended compensation under the State unemployment compensation laws would be subject to the decision of the Secretary of Labor.

I yield to my friend, the Senator from Arizona.

Mr. FANNIN. Just for a question. Does the Senator know of anyone who would not be covered under Public Law 93-572 that was passed December 31, 1974, anybody who would be unemployed and not be subject to compensation? If he would be subject to compensation under this law, then wouldn't he also be covered under the law that was passed this year, the $2 billion package? Certainly that would cover the people about whom he is concerned.

Mr. RANDOLPH. The Senator from West Virginia will say, in response to the question that there could be such instances, but there are limitations in the section to prevent abuses of the compensation program.

Now, Mr. President, I oppose this amendment, and I do with the full realization of the conviction of the Senator from Arizona in this matter. He has expressed his opposition very candidly to the Members of this body. It would strike the unemployment compensation provision from the measure.

I support the strict regulation of surface mining. I have done that in the past, and I do it today. But while I do this I believe it is unrealistic, Mr. President, to expect that it will not have some effect on employment and unemployment in coal-producing areas.

Any serious program of surface mining control will bring regulations that will cause economic dislocation.

A study in 1972 by the West Virginia legislature indicated that the abolition of surface mining would cost 8,000 miners in our State their jobs. Now, that figure relates to abolition, I want to be very correct in so stating. But if we have strict controls, surely there will be some fraction of that dislocation which I have mentioned.

Mr. President, I do not believe that the personal hardship should be inflicted on individuals just because the industry in which they have worked is now subject to stringent regulation. Therefore, I originally sponsored an amendment to provide unemployment compensation on an extended basis to those persons in the coal industry who become unemployed because of this act. That provision, in a more limited form, was included in the bill finally reported by the Conference Committee and vetoed by the President last year, and that is the provision Senator FANNIN's amendment proposes to strike from the bill now before the Senate, as I have indicated.

Mr. FANNIN. If the Senator will yield, the Senator realizes that is not now in the House bill presently being considered?

Mr. RANDOLPH. Yes, I realize that.

Mr. FANNIN. I thank the Senator.

Mr. RANDOLPH. I was simply saying that this provision was in the bill that was vetoed by the President.

If I have reemphasized, it was only that I wanted to make that statement emphatic.

I understand the position that we should seek to provide these unemployment compensation benefits in a uniform way for all those in need, through general legislation. But such assistance is not now generally available, and I do not believe this bill should move forward without making provision to repair the dislocation it will create.

Mr. FANNIN. Mr. President, I do not like to disagree with the distinguished Senator from West Virginia. I have great respect for the Senator and for the positions he takes. He is certainly thorough in his investigation of legislation upon which he takes a position.

But I just say that this is giving special consideration where people are already covered. Why should we have to determine whether someone in the mining industry lost his job, or someone in the automotive industry. They are all affected. If one is out of a job, one is out of a job.

We should be consistent, and already

have Public Laws 93–567 and 93–572, and then here we add to that a $2-billion package.

So I say, Mr. President, we do have this coverage.

It is inconsistent now to back up every industry. We will certainly have turmoil if people are trying to decide whether they come under this law or that law, or get compensation under this act or under another act.

I would just say, Mr. President, we have an obligation here in the Congress of the United States to apply our laws equally, to treat people on the same basis. If we do not have a law today, which I think we do have, that will take care of the people that the Senator is concerned about, then we should pass a law in that respect. But my position is that we do have effective legislation at the present time.

Mr. METCALF. Mr. President, how much time have I?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. METCALF. Mr. President, under this law, S. 7, there is going to be a substantial increase in employment, an increase brought about by two things, primarily.

First, the fact that the land is going to be reclaimed and it will take more people to reclaim the land than to strip the land.

Second, we have a substantial provision here for reclamation of other abandoned and so-called orphan lands.

So there will be additional employment in the coal mining areas. I doubt very much if in any area there is going to be, as a result of the passage of this bill, any unemployment.

I want to point out, and this is at page 187 of the committee report, that we have directly touched upon the two bills that were mentioned by the Senator from Arizona, Public Law 93–567 and Public Law 93–572, and point out that those do not apply, do not touch the problem of unemployment in this specific area.

So a majority of the committee felt that if in a certain specific area some mine workers were unemployed as a result of the passage of this legislation, we should retain the provision that came out of conference.

I urge that this modified provision, that modified the floor amendment from last year, be adopted and sent to conference.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I have not participated in the debate on this bill as this is not an enterprise in which I have been particularly active, but I do express considerable concern about a unique type of unemployment assistance which is incorporated in this particular section.

The concern which I express is because we are under a so much greater problem of unemployment where I have had a very, very direct and very active participatory relationship in respect of law to extend Federal unemployment compensation of a special character both to those who have used up their benefits and to those not covered by State law, and other aspects of unemployment problems.

I, therefore, would like to have the attention of the managers of the bill on this matter because I think the problem which I raise of the unique character of this particular type of unemployment compensation can be determined by the terms of the bill itself, because I note that the provision of the bill begins at the bottom of page 152, and states:

> Regulations of the Secretary of Labor under paragraph (1) may require—

I emphasize that word "may"—

> that States enter into agreements as such regulations—
>
> (A) shall provide that—

And so on.

Now, then, when we go over to (B), for example, on page 154, we have again the word "may."

> may provide that individuals eligible for a benefit under this subsection have been employed for up to one month in the fifty-two-week period.

That is a much shorter time than is generally provided, I think, under practically all State laws.

So I ask the manager of the bill, and the manager on the minority side, and perhaps the Senator from West Virginia (Mr. RANDOLPH) himself, would wish to answer this question: Is there enough discretion vested in the Secretary of Labor in respect of what shall be the eligibility, the form, et cetera, of this type of unemployment compensation so that without in any way changing the bill when we take into consideration all of the unemployment compensation laws——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. May I have 1 minute more?

Mr. FANNIN. I yield 1 minute on the bill.

Mr. JAVITS. All of the unemployment compensation laws and the whole pattern of unemployment with which he is charged, or do the authors of the bill intend that this is all mandatory?

In other words, if we can take into consideration the total pattern of unemployment compensation, et cetera, then I would have confidence that he simply is not going to be blindfolded or wear blinders on what kind of unemployment compensation is applied here. The word "may" does give him that right.

If the authors intend that this is the way it has to be done, and no other way, I would worry about it for the reasons I have stated. I know they are as deeply concerned about the total pattern of unemployment compensation as I am.

Mr. METCALF. Mr. President, I yield myself 1 minute on the bill.

Mr. President, it would be my idea, and I believe the idea of my colleagues on the committee who support the amendment or proposal of Senator RANDOLPH, that it would be the responsibility and the privilege of the Secretary of Labor to take into consideration the entire spectrum of unemployment compensation. But in some area that might arise, in some special, local, or regional area, where the economic unemployment compensation laws do not take effect, we feel that it would be proper, because of the passage of this legislation creating a special type of unemployment there, to also include the amendment that is in the bill.

Mr. JAVITS. In other words, as I understand it, if the Senator will yield, he might go up and he might go down, but provided he considers both the pattern of unemployment and the special purposes of this bill.

Mr. METCALF. That is correct. But, preferably, he would fit this into the whole pattern of unemployment compensation.

Mr. JAVITS. I thank the Senator very much.

Is that the understanding of Senator RANDOLPH?

Mr. RANDOLPH. Yes. What Senator METCALF has said is my thinking in reference to this matter. I think the concern of the able Senator from New York is understandable. We want to give a certain flexibility here. If there are unemployed persons who cannot take advantage properly and rightly of regular unemployment compensation—and I do not think there will be many—then we should take care of them. We give the responsibility for the implementation to the Secretary of Labor.

Mr. FANNIN. I yield myself 1 minute to comment to the Senator from New York.

This is the basis of the interpretation as far as the extent of the benefits any person can get—this compensation would be not in addition to but rather would commence after his other rights ran out. It also says:

> The unemployment resulting from the administration enforcement of this act shall be defined in the regulations of the Secretary of Labor and includes unemployment clearly attributed to such administration enforcement.

The interpretation is, I think, very difficult to apply and would create problems. I just feel that we already have adequate legislation that now covers the need.

Mr. JAVITS. I thank my colleague.

Mr. FANNIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METCALF. May I make a parliamentary inquiry, Mr. President?

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. Under the unanimous-consent agreement, it is proposed that we vote at 3 o'clock. The yeas and nays on this amendment have been ordered and, of course, we will vote on that amendment first. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. METCALF. However, there are 6 minutes remaining. Would it be in order for me to suggest if somebody else had an amendment in this next 6 minutes, they could offer it and then we would vote in order on the amendments?

The PRESIDING OFFICER. It would take a unanimous consent to set aside the present amendment in order to allow that.

Mr. METCALF. I ask unanimous consent that at the hour of 3 o'clock we start voting on amendments and then conclude with the rollcall on the bill.

I ask unanimous consent that in the interval between now and 3 o'clock, the bill be open for any further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Reserving the right to object, will the Senator amend that to permit me to have 1 minute to get some matters into the RECORD dealing with the bill prior to the amendments being called up?

The PRESIDING OFFICER. Is the Senator's motion amended to accommodate the request of the Senator from Virginia?

Mr. METCALF. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. I now yield to the Senator from Wyoming to offer an amendment.

Mr. HANSEN. Mr. President, I thank the distinguished floor manager of the bill.

AMENDMENT NO. 74 (AS MODIFIED)

Mr. HANSEN. Mr. President, I call up my amendment No. 74 (as modified), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 163, line 4, strike all through page 169, line 16, and insert the following:

SEC. 716. (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.

(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. 201(a)), 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 issue a mining permit for any lease of such coal deposits until the lessee has the written consent of the surface owner to enter and commence surface mining operations or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of coal within the boundaries of his property by surface mining methods.

(e) In the event the lessee does not secure consent from the surface owner as prescribed in subsection (d), the lessee may rescind the lease whereupon the Secretary shall reimburse him for the value paid for the lease.

(f) 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; and

(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 mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations.

(g) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other landowner, nor increasing or diminishing any rights or privileges acquired in accordance with the provisions of section 201(b) of title 30, United States Code.

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

Mr. HANSEN. Mr. President, I want to point out that it is going to be a little more difficult to get the next unanimous-consent request because despite the feeling of many that this amendment is not important, I happen to think it is.

I do not think I will have enough time to go into it as I would like to go into it.

My amendment would strike the present section 716 in the bill and insert in lieu thereof certain language which would accomplish three or four things.

Section 716 of this bill deals with surface owner consent. It spells out precisely what restrictions shall be applied to the surface owner insofar as what he is eligible to receive in exchange for giving his consent to mine the coal under his land.

Under the terms of the bill as now written, the surface owner has the right to appoint an appraiser. The Government has the right to appoint an appraiser. Those two appoint a third appraiser, whose duty it shall be to determine the fair appraised value of the surface; the fair appraised value of the improvements thereon, and to make such other determinations as the amount of income lost that would be suffered by virtue of the incidence of the mining operation, and the costs of relocation.

In addition to those I have enumerated, he may be paid up to $100 per acre for the land actually mined, actually being occupied, or directly involved in the surface mining operation.

May we have order, Mr. President?

The PRESIDING OFFICER. May we have order in the Senate?

Mr. HANSEN. In addition to the compensation I have spoken of, he may be paid up to $100 per acre for the lands actually mined or occupied by the surface mining operation if, in the opinion of the Secretary, considering the tenure that the surface owner has been on the land, and other factors, he is deserving of more than he would otherwise receive.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was rejected.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. TAFT) are absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 19, nays 77, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—19

Bartlett	Garn	Roth
Bellmon	Griffin	Talmadge
Buckley	Hansen	Thurmond
Curtis	Helms	Tower
Domenici	Hruska	Young
Fannin	Laxalt	
Fong	McClure	

NAYS—77

Abourezk	Hart, Philip A.	Muskie
Allen	Hartke	Nelson
Baker	Haskell	Nunn
Beall	Hatfield	Packwood
Bentsen	Hathaway	Pastore
Biden	Hollings	Pearson
Brock	Huddleston	Pell
Brooke	Humphrey	Percy
Bumpers	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Harry F., Jr.	Javits	Ribicoff
	Johnston	Schweiker
Byrd, Robert C.	Kennedy	Scott, Hugh
Cannon	Leahy	Scott, William L.
Case	Long	
Chiles	Magnuson	Sparkman
Church	Mansfield	Stafford
Clark	Mathias	Stennis
Cranston	McClellan	Stevens
Culver	McGee	Stevenson
Dole	McGovern	Stone
Eagleton	McIntyre	Symington
Eastland	Metcalf	Tunney
Ford	Mondale	Weicker
Glenn	Montoya	Williams
Gravel	Morgan	
Hart, Gary W.	Moss	

NOT VOTING—3

Bayh	Goldwater	Taft

So Mr. FANNIN'S amendment was rejected.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I send to the desk an amendment and request its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 125, after line 13, insert the following:

"(f) No surface mining operations for phosphate except those which exist on the date of enactment of this act shall be permitted on any Federal lands within the boundaries of any national forest except surface operations and impacts incident to an underground mine."

Mr. METCALF. Mr. President, I make the point of order against the amendment that it is not germane. Yesterday in the unanimous-consent agreement the proposal was that we would have amendments to this bill and vote on it at 3 o'clock, but that the amendments would have to be germane.

I call attention to the proposition that this bill is a surface mining bill for coal, and we have limited it to coal and coal only. The amendment refers to phosphate, and therefore is not germane under the provisions of the bill.

The PRESIDING OFFICER. Does the Senator from Florida wish to be heard on the point of order?

Mr. CHILES. Yes, I do, Mr. President.

Looking at title I, Statement of Findings and Policy, in section 101, it states:

> 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;

The bill repeatedly talks about surface mining of "coal and other minerals."

Further, in the bill itself, at page 136, in section 601(a), it says:

> 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.

This section specifically deals with minerals other than coal. So the bill is replete. While perhaps in its main thrust and important it deals with coal, it is replete with areas in which it speaks of minerals and materials other than coal, and I feel that the amendment would be germane to a surface mining bill.

Mr. METCALF. Mr. President, may I be heard further on the point of order?

The PRESIDING OFFICER. Yes.

Mr. METCALF. The sections cited by the Senator from Florida are prospective and future in nature. They say in the future it is the intention of the committee to look into surface mining of minerals other than coal, to look into even the matter of quarries and spoil pits, and so forth. We are asking the Council on Environmental Quality, on these other minerals, to conduct a study. But the only regulations we have in this bill, and all the amendments that have been brought up during the consideration of the bill, have related to coal. We have resisted any amendments that have provided for other minerals or any other concerns.

We do say that in the future we will look into other minerals, and ask the Secretary to make a study to keep us advised, but that is the only purpose of reference to other minerals in this legislation.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. CHILES. Will the Senator tell me, on page 136 of the bill, title VI, "Designation of lands unsuitable for noncoal mining," in section 601(a) under that title, whether there is anything prospective about that, or in the future? That seems to me to read so as to apply very much to the present.

Mr. METCALF. This is for the Secretary to review these areas that are unsuitable for noncoal mining. This is on Federal lands only. As I understand, the Senator's amendment on phosphate relates to Federal lands also. But this is prospective in nature, and it is up to the Secretary to review. I have announced already that it is the intention of the subcommittee to hold hearings on nonferrous strip mining and open pit mining. The Senator's subject matter would be taken up in the course of that hearing.

Mr. CHILES. As I read this again, it does not say just a review. It says, "shall review any area within such lands and assess" whether it is suitable for mining or not.

So again, there is nothing perspective about that. This section gives the Secretary of the Interior the express right to allow minerals other than coal not to be mined on Federal lands.

That is all the amendment of the Senator from Florida attempts to do, is just say that if you are not going to allow coal mining in national forests, why should you allow mining of phosphates in national forests?

Mr. METCALF. We allow all other mining in the national forests. We allow people to go out and file claims in the national forests. The Senator from Washington (Mr. JACKSON) and I have bills that would change the locatability and leasability in the national forests, but that is a matter we have consistently taken up under other legislation than this surface mining of coal.

Mr. CHILES. As I understand, we were speaking of the point of order.

Mr. METCALF. Yes.

Mr. CHILES. The point of the Senator from Florida was that this amendment is germane. I would like to argue with the Senator the other point that he has already argued. Certainly if we have an amendment and a fight on this floor as to whether we can take up the matter of using the national forests to mine coal, I do not happen to have any coal in my State, but we do have mining of phosphates in our national forests.

Mr. METCALF. Mr. President, may we have a ruling on the point of order?

The PRESIDING OFFICER (Mr. BUCKLEY). The Chair submits the question to the Senate. The question is, Is the point of order well taken?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What is the precedent for the ruling by the Chair? Is it the Rockefeller precedent?

I did not hear the Chair. May we have order?

The PRESIDING OFFICER. I believe that the Chair has recognized each Senator seeking recognition.

Mr. HANSEN. That, of course, depends upon the judgment of the Chair. We sought recognition, if we could get it.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Does that make the Presiding Officer a liberal or a conservative?

The PRESIDING OFFICER. The question is, Is the point of order well taken (putting the question)?

The Chair is in doubt, and calls for a division.

On a division, the point of order was sustained.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate is considering an important piece of legislation. S. 7 is heralded by its sponsors as providing the means to balance our growing energy needs with the stress these needs place upon our environment.

I agree with this objective. The State of Virginia has a good reclamation law. But does the pending legislation accomplish this objective? I think not.

On the contrary, the bill before us would reduce the available supply of a scarce and valuable fuel—namely low-sulfur coal—at a time of very real energy shortage in the United States.

It is essential that we keep in mind the vital role that coal plays in our energy picture. It is not too much to say that unless and until we pass entirely out of the fossil fuel age—and there certainly is no immediate prospect of that—the United States is absolutely dependent on an adequate coal supply.

I think this was clearly recognized by the President when, in his outline for an "urgent national energy plan," he said:

> Stronger measures to speed the development of other domestic energy resources, such as coal, geothermal, solar, and nuclear power, are . . . essential.

The minority views of Senators FANNIN and BARTLETT note that this means a doubling of our domestic coal production by 1985.

Likewise, the distinguished majority leader, Senator MANSFIELD, and the Speaker of the House, in their presentation of the Congressional Program of Economic Recovery and Energy Sufficiency, called for an increase in domestic coal production from the 685 million tons anticipated for 1975 to 1,370 million tons by 1985.

Yet, S. 7 would go in the opposite direction.

It is essential that we make wise use of this great resource. Unreasonable restriction on coal production would greatly weaken our effort to achieve self-sufficiency in energy. We can and should protect the environment without unreasonable restrictions in coal production.

We must consider that even with prudent conservation measures, our economy is going to demand increasing amounts of energy each year.

At the same time, there is a pressing concern for cleaner air in our metropolitan areas and clearner air in some of our rural regions—a demand which can be met in part by low-sulfur coal.

Surface mining in Virginia regularly produces 10 million tons of low-sulfur coal annually. If this bill is enacted, that coal will not be available.

I think some aspects of the problems involved in regulation of surface mining, particularly as concerns mountainous regions like the mining area of southwest Virginia, have not been given full consideration to date. I would like now to explore some of these problems.

The committee recognizes in its report that a mining and reclamation program for the mountains of Appalachia must necessarily differ from one for the West-

ern areas of our country. Further, it is recognized that many States already have regulatory surface mining and reclamation laws and, while the implication is made that these laws are not adequately enforced, it is not, and it cannot, be said that all State laws are poorly enforced.

Virginia has had a strong surface mining and reclamation law on the books and in full effect since 1966. It was strengthened in 1972 by the general assembly. I believe it is a good law.

The Virginia General Assembly already has recognized the problems associated with surface mining. The legislature moved to correct it by responsible and responsive legislation. And it is working.

There is much coal production in the southwestern areas of my State. Coal production, together with its allied industries, is the major industry and the major source of income for southwest Virginia. Virginia's law has insured environmental responsibility without committing economic suicide.

Mr. President, S. 7 can make no such claims.

This bill, if enacted as presently written, will, I am reliably informed, end surface mining of coal in the rugged mountains of southwest Virginia. The bill requires backfilling to original contours.

While this might be possible in some areas, it is not in southwest Virginia.

There is even strong evidence that an unbending policy to slope restoration promotes further environmental damage, such as erosion, rather than retarding it. Yet the bill makes no allowance for the submission and approval of alternative plans by the operators.

Elimination of any deposit of spoil downslope, in effect, eliminates, according to competent sources, surface mining of coal in my State.

Likewise, the definition of "steep-slope" as any slope above 20°, as effectively bans surface mining of coal in Virginia as if the bill stated: "It is Federal policy that there shall be no surface mining of coal in Virginia."

There are those who will say "It is quite all right to eliminate surface mining of coal. The jobs which are lost can be replaced by some other occupation, or by deep mining. And surface mined coal only amounts to a small percentage of our total coal reserves."

These statements may apply to some other State, Mr. President. But they do not reflect the effect of this legislation upon Virginia. Virginia has over 2,000 persons directly employed by coal surface mining companies, and an estimated 6,000 additional in related supporting services and businesses. Thus, if surface mining were eliminated in Virginia, it would have a profound effect on jobs—at least 8,000.

The long-term effect, in terms of jobs only remotely related or dependent upon the surface mining of coal, could be several times greater.

These concerns were expressed most recently by Mr. B. V. Cooper, executive director of the Virginia Surface Mining and Reclamation Association, Inc., in a letter to Interior Secretary Rogers C. B. Morton, dated February 24, 1975.

Later, I shall ask unanimous consent that a copy of this letter be printed in the RECORD.

In addition, consider this: Virginia's annual coal production exceeds 30 million tons. The surface mining industry produced 10 million tons of low-sulfur coal, or between 25 to 30 percent of Virginia's annual production.

This is coal production which, if eliminated on the surface, cannot be increased through the deep-mining of coal. It is lost to our economy.

Just what does this mean to the people caught in the midst of compelling energy shortages? It means that the 70 percent of Virginia's surface-mined coal which has gone to the electric utility companies will be removed from their power supplies.

It means that more shortages are likely in the near future.

It means that costs will rise.

Yes, 10 million tons of coal will be eliminated from production, according to the reliable estimates.

Mr. President, two of the most critical problems which are facing this Nation today—indeed, two of the most critical problems which have ever faced this Nation—are the energy situation and unemployment.

This bill will hurt both.

This bill has laudable purposes—purposes which I support. But for the reasons I have outlined, I think it fails to accomplish its aim.

Because of the extremes to which it goes and its serious adverse effect on the jobs and economy of southwest Virginia, I must cast my vote against S. 7.

I ask unanimous consent to insert at this point in the RECORD, a letter from B. V. Cooper, executive director of the Virginia Surface Mining and Reclamation Association, Inc., which shows the economic impact in Virginia; and this to be followed by the Virginia laws on surface mining and reclamation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VIRGINIA SURFACE MINING AND RECLAMATION ASSOCIATION, INC.,
Norton, Va., February 24, 1975.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Interior Building, Washington, D.C.

DEAR MR. SECRETARY: Our membership commends you and your Staff for again making Congress aware of the terrible cost this country will pay if either S. 7 or H.R. 25 should become law. This legislation, if passed and enforced as written, would virtually eliminate coal surface mining in Virginia's mountainous coal region.

In support of your conclusions, we would point out that over 2,000 people are directly employed on our Virginia coal surface mines. An estimated 5,000 to 7,500 additional workers earn their livings in related work such as trucking, equipment maintenance, railroading, related services, etc. It is obvious that Virginia alone would suffer nearly 20% of your 47,000 estimated jobs lost. Interestingly, we produce just over three percent of the nation's surface-mined coal, or about 10 million tons annually.

Neither this lost production nor the lost jobs can be made up by underground mining. Expansion capital and skilled labor are not available here. In fact, total Virginia coal production would decrease drastically. One of the many reasons is that high-sulphur underground coal from some Virginia mines is blended with low-sulphur surface coal. The resulting product will meet stringent sulphur emission standards passed by certain localities. Without the surface coal production, these underground mines would not have a market for their product.

In summary, Mr. Secretary, these bills are capable of plunging us even further into recession and energy shortages while doing little to improve the environment.

Thank you for taking time to consider our comments. We will be pleased to provide any additional information or assistance you may desire.

Very truly yours,

B. V. COOPER,
Executive Director.

CODE OF VIRGINIA ON SURFACE MINING AND RECLAMATION

CHAPTER 16.—PERMITS FOR CERTAIN MINING OPERATIONS; RECLAMATION OF LAND

Sec.
45.1-180. Definitions.
45.1-180.1. [Repealed.]
45.1-181. Permit required; fee; duration; application; approval by Department.
45.1-182. Plan of operation.
45.1-183. Bond of operator.
45.1-184. Review of plan of operation by Director; issuance of permit.
45.1-185. Additional bond to be posted annually; release of previous bond; report of reclamation work.
45.1-186. Inspection and approval or disapproval of reclamation work; forfeiture of bond.
45.1-187. Additional bond to cover amended estimate of land to be disturbed.
45.1-188. Interference with reclamation unlawful; other mining operations on land.
45.1-190. [Repealed.]
45.1-191. Penalty for violation of chapter, etc.
45.1-193. Injunctive relief.
45.1-194. Appeals to Board of Surface Mining Review.
45.1-195. Board of Surface Mining Review created; membership; terms; vacancies; chairman; compensation; duty.
45.1-197. Local standards and regulations; waiver of application of chapter.
45.1-197.1. [Repealed.]
45.1-197.2. Certain powers of Chief not affected by chapter.

§ 45.1-180. Definitions.

(a) *"Mining".*—Means the breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals, ores, rock or other solid matter; any activity constituting all or part of a process for the extraction or removal of minerals, ores, rock or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Nothing herein shall apply to mining of coal.

(e) *"Operator".*—Any individual, group of individuals, corporation, partnership, business trust, association or any legal entity which is engaged in mining and which disturbs more than one acre of land or removes, or intends to remove, more than five hundred tons of minerals, ores or other solid matter in any twelve-month period from any such land by such mining operation.

(f) *"Director".*—The Director of the Department of Conservation and Economic Development or his authorized agent.

(h), (i) [Repealed.]

(1972, c. 206; 1974, c. 312.)

The 1972 amendment substituted "one

acre" for "one-quarter acre" and "five hundred" for "one hundred" in subdivision (e).

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment deleted "strip" preceding "mining" in the second sentence of subdivision (a), added "or his authorized agent" at the end of subdivision (f), and deleted former subdivisions (h), defining "Division" and (i), defining "Chief."

Only part of section set out.—Only the subdivisions changed by the amendments are set out.

§ 45.1-180.1: Repealed by Acts 1974, c. 96.

Code commission note.—The repealed section was enacted by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that is should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-181. Permit required; fee; duration; application; approval by Department.—It shall be unlawful for any operator to engage in any mining operation in this State, without having first obtained from the Department a permit to engage in such operation and paying a fee therefor of six dollars per acre for every acre proposed to be disturbed, not to exceed the total sum of one hundred fifty dollars, which shall be deposited in the State treasury in a special fund to be used by the Director in performing reclamations under the provsions of this chapter. Such permits shall not be transferable. A permit shall be obtained prior to the starting of any mining operation. A permit shall continue to be in effect, if within ten days of the anniversary date of the permit the Director, after inspection, is satisfied that the operation is proceeding according to the plan submitted to and approved by him. If the operator believes changes in his original plan are necessary or if additional land not shown as a part of the approved plan of operation is to be disturbed, he shall submit an amended plan of operation which shall be approved by the Director in the same manner as an original plan and shall be subject to the provisions of §§ 45.1-182 and 45.1-183 hereof. A separate permit must be secured for each mining operation conducted. Application for a mining permit shall be made in writing on forms prescribed by the Director and shall be signed and sworn to by the applicant or his duly authorized representative. The application, in addition to such other information as may be reasonably required by the Director shall contain the following information: (1) the common name and geologic title, where applicable, of the mineral, ore or other solid matter to be extracted; (2) a description of the land upon which the applicant proposes to conduct mining operations, which description shall set forth: the name of the county or city in which such land is located; the location of its boundaries and any other description of the land to be disturbed in order that it may be located and distinguished from other lands and easily ascertainable as shown by a map attached thereto showing the amount of land to be disturbed; (3) the name and address of the owner or owners of the surface of the land; (4) the name and address of the owner or owners of the mineral, ore or other solid matter; (5) the source of the operator's legal right to enter and conduct operations on the land to be covered by the permit; (6) the total number of acres of land to be covered by the permit; (7) a reasonable estimate of the number of acres of land that will be disturbed by mining operations on the area to be covered by the permit during the ensuing year; (8) whether any mining permits of any type are now held by the applicant and the number thereof; (9) the name and address of the applicant, if an individual; the names and addresses of all partners, if a partnership; the state of incorporation and the name and address of its registered agent, if a corporation; or the name and address of the trustee, if a trust; and (10) if known, whether the applicant, or any subsidiary or affiliate or any partnership, association, trust or corporation controlled by or under common control with applicant, or any person required to be identified by item (9) above, has ever had a mining permit of any type issued under the laws of this or any other state revoked or has ever had a mining or other bond, or security deposited in lieu of bond, forfeited.

The application for a permit shall be accompanied by two copies of an accurate map or plan and meeting the following requirements:

(a) Be prepared by a licensed engineer or licensed land surveyor or issued by a standard mapping service approved by the Director;

(b) Identify the area to correspond with the land described in the application;

(c) Show adjacent deep mining, if any, and the boundaries of surface properties, with the names of owners of the affected area which lies within a hundred feet of any part of the affected area;

(d) Be drawn to a scale of four hundred feet to the inch or better;

(e) Show the names and location of all streams, creeks or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area affected and within five hundred feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the outcrop of the seam at the surface or deposit to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north arrow and the quadrangle name;

(h) Show the drainage plan on and away from the area of land affected, including the directional flow of water, constructed drainways, natural waterways used for drainage and the streams or tributaries receiving the discharge.

No permit shall be issued by the Department until the Director has approved the plan of operation required in § 45.1-182 and the bond from the applicant as required in § 45.1-183. (1968, c. 734; 1972, c. 206; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1972 amendment deleted "person or" preceding "operator" near the beginning of the first sentence.

The 1974 amendment substituted "Department" for "Division" in the first sentence and "Director" for "Chief" in the seventh sentence of the first paragraph, added "or issued by a standard mapping service approved by the Director" to subdivision (a) of the second paragraph and substituted "Department until the Director has approved" for "Division until it has received approval in writing from the Department of" in the last paragraph.

§ 45.1-182. Plan of operation.—At the time of filing an application for a permit, each operator shall file with the Department a plan of operation for the mining operations for which a permit is sought. The plan shall then be submitted to the Director on a form to be prescribed by the Director and shall contain such information as the Director may require. The plan shall contain among other things an agreement by the operator to provide for the following in a manner satisfactory to the Director:

(1) Removal of metal, lumber and other debris resulting from mining operations.

(2) Regrading of the area in a manner to be established by rules and regulations of the Director.

(3) Grading the surface in such a manner as to preserve existent access truck roads and truck roads on and along the bench, and grading the surface on areas where truck roads do not exist in such a manner that serviceable truck roads may be constructed with minimum cost by persons other than the operator for the purposes of forest fire control or recreation.

(4) Grading loose soil, refuse and other debris on the bottom of the last cut so as to reduce the piles of such material in accordance with good conservation practices.

(5) Planting trees, shrubs, grasses or other plants upon the parts of such area where revegetation is practicable.

(6) Where the operator elects to impound water to provide lakes or ponds for wildlife, recreational or water-supply purposes, such operator shall file a formal request with the Department and obtain approval before such ponds or lakes can be created in impounding such water.

(7) In a plan of operation submitted by a dimensional stone quarry operator, the Director shall give due consideration to the peculiar nature of the excavated cavity or cavities to be excavated contained in such plan. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "Department" for "Division" in the first sentence of the introductory paragraph.

§ 45.1-183. Bond of operator.—Each operator at the time of filing his application shall furnish bond on a form to be prescribed by the Director payable to the Department and conditioned that the operator shall faithfully perform all of the requirements of this chapter and of the plan of operation as approved and directed by the Department; except that any persons engaged in mining less than one acre per year on land of which he is owner in fee shall not be required to pay any bond. The amount of bond shall be no less than two hundred dollars nor more than one thousand dollars per acre, based upon the number of acres of land which the operator estimates will be disturbed by mining operations during the next ensuing year. The minimum amount of bond furnished shall be one thousand dollars, except in areas of five acres or less the bond shall be no less than two hundred dollars nor more than one thousand dollars per acre. Such bond shall be executed by the operator and by a corporate surety licensed to do business in this State; provided, however, that in lieu of such bond the operator may deposit cash or collateral security acceptable to the Director. (1968, c. 734; 1970, c. 245; 1972, c. 206; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1972 amendment added the exception clause at the end of the first sentence.

The 1974 amendment substituted "Director" for "Chief" in the first sentence and "no less than two hundred dollars nor more than one thousand dollars" for "fifty dollars" near the beginning of the second sentence and

"no less than two hundred dollars nor more than one thousand dollars per acre" for "two hundred dollars" at the end of the third sentence and substituted "Director" for "Chief" at the end of the fourth sentence.

§ 45.1–184. Review of plan of operation by Director; issuance of permit.—Upon receipt of a reasonable plan of operation and bond prescribed above, the Director shall review the plan and if it meets with his approval issue a permit. If the Director disapproves the plan, he shall furnish the applicant with his written objections thereto and his required amendments. Until the applicant shall amend his plan of operation to meet the Director's reasonable objections and file a satisfactory amended plan with the Director, no permit shall be issued.

The Director shall issue the permit unless he finds that the applicant has had control or has had common control with a person, partnership, association, trust or corporation which has had a mining permit revoked or bond or other security forfeited for failure to reclaim lands as required by the laws of this State, in which event no permit shall be issued. Except, however, if an operator who has heretofore forfeited a bond within thirty days of notice and demand by the Director pays the cost of reclamation in excess of the amount of the forfeited bond, or if any bond is forfeited and the amount forfeited is equal to or less than the cost of reclamation, such operator shall then become eligible for another permit (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "and if it meets with his approval issue a permit" for "and if it meets his approval certify this fact to the Division" in the first sentence and deleted "and the Division" following "applicant" in the second sentence of the first paragraph and substituted "The Director" for "Upon receipt of the Director's approval and the required bond, the Chief" in the first sentence of the second paragraph.

§ 45.1–185. Additional bond to be posted annually; release of previous bond; report of reclamation work.—Within ten days following the aniversary date of any permit, the operator shall post additional bond in the amount of no less than two hundred dollars nor more than one thousand dollars per acre for each additional acre of land estimated by him to be disturbed during the next year following the anniversary date of the permit for which no bond has been previously posted by him. Bond or other security previously posted shall be released for the areas disturbed in the last twelve months if reclamation work has been completed and the approval of the Director obtain in accordance with the following:

The operator shall file with the Department a written report on a form to be prescribed by the Department stating under oath that reclamation has been completed on certain lands and submit the following: (a) Identification of the operation; (b) the county or city in which it is located and its location with reference to the nearest public highway; (c) a description of the area of land affected by the operation within the period of time covered by such report with sufficient certainty to enable it to be located and distinguished from other lands; (d) an accurate map or plan prepared by a licensed land surveyor or licensed engineer or issued by a standard mapping service approved by the Director showing the boundary lines of the area of land affected by the operation, the number of acres comprising such area and the methods of access to the area from the nearest public highway. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "no less than two hundred dollars nor more than one thousand dollars" for "fifty dollars" in the first sentence of the introductory paragraph and inserted "or issued by a standard mapping service approved by the Director" in clause (d) of the last paragraph.

§ 45.1–186. Inspection and approval or disapproval of reclamation work; forfeiture of bond.—Upon receipt of the report called for in § 45.1–185, the Director shall cause an inspection to be made of the land described in the report. If he approves the reclamation work completed by the operator, he shall order the return of the bond or certified check to the operator.

If the Director does not approve the reclamation work, he shall notify the operator immediately in writing and advise him of what additional steps he deems necessary to satisfactorily complete the reclamation. In such event, the operator shall have ninety days from the receipt of the Director's order to begin such additional reclamation and present satisfactory evidence to the Director that such work is in progress. The bond or other security posted by the operator for such land shall not be refunded until he has obtained the Director's approval as aforesaid.

If the operator does not undertake to complete the reclamation in accordance with the notification of the Director and submit evidence to the Director that such work is in progress within ninety days of such order or within such additional period of time not to exceed six months which may be granted by the Director for cause shown, the Director shall order a forfeiture of the bond or other security posted by the operator at a rate of no less than two hundred dollars nor more than one thousand dollars per acre or part thereof for each acre of land involved; or, upon the written request of the operator, the Director shall survey the land involved and establish the cost of reclaiming such land. He shall immediately notify the operator by registered mail, who shall within thirty days of receipt of such notice deposit cash or a certified check with the Director the sum set by the Director for reclamation. Upon receipt of this sum, the Director shall have the reclamation performed with the money so received and release the operator from further liability.

In the event the operator does not post the cost of reclaiming as set by the Director or does not request him to set such amount the Director shall certify the fact to the Attorney General who shall proceed to collect the amount thereof, which, when collected, shall be deposited in the State treasury in a special fund to be used by the Director in performing reclamation under the provisions of this chapter. Furthermore, following the order of forfeiture the Director shall perform such reclamation operations as he deems necessary with the resources and facilities of his Department or as provided by § 45.1–192 hereof, the cost thereof to be paid from the proceeds of the special fund above created. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "approves" for "shall approve" and deleted "shall notify the Division in writing and the Chief" preceding "shall order" in the second sentence of the first paragraph, deleted "and the Director has notified Division in writing to this effect" at the end of the third sentence of the second paragraph, deleted "request, and the Chief shall" following "the Director shall" near the middle of the first sentence of the third paragraph and substituted, in that sentence, "a rate of no less than two hundred dollars nor more than one thousand dollars" for "the rate of fifty dollars." The amendment also substituted "Director" for "Chief" in the first sentence of the last paragraph.

§ 45.1–187. Additional bond to cover amended estimate of land to be disturbed.—If, during any operation, it is found that the operator's estimate of the amount of disturbed land for which bond or other security has been posted for reclamation is less than the actual area disturbed, the Director shall order the operator to file additional bond or security sufficient to cover an amended estimate of land to be disturbed by such operation. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "Director" for "Chief."

§ 45.1–188. Interference with reclamation unlawful; other mining operations on land.—It shall be unlawful for any owner or owners of surface rights or the owner or owners of mineral rights to interfere with the operator in the discharge of his obligations to the State for the reclamation of lands disturbed by him. If the owner or owners of surface rights or the owner or owners of mineral rights desire to conduct other mining operations on lands disturbed by the operator furnishing bond hereunder, such owner or other person shall be in all respects subject to the provisions of this chapter and the Director shall then release an equivalent amount of bonds to the operator originally furnishing bond on the disturbed area. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "Director" for "Chief" in the second sentence.

§ 45.1–190: Repealed by Acts 1974, c. 312.

§ 45.1–191. Penalty for violation of chapter, etc.—Any violation of any provision of this chapter or of any order of the Director shall be a misdemeanor punishable by a maximum fine of one thousand dollars or a maximum of one year in jail, or both. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment deleted "or Chief" following "Director."

§ 45.1–192. Assistance of federal, State and local agencies.

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1–193. Injuctive relief.—In addition to other legal processes, the Director or the Department may seek injunctive relief to enforce any rule, regulation, order or requirement issued. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was

amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment deleted "the Chief or the Division or" preceding "the Director."

§ 45.1-194. Appeals to Board of Surface Mining Review.—An appeal from any order, rule or regulation of the Department shall be taken first to the Board of Surface Mining Review hereinafter created. Such appeal shall be taken within thirty days following the issuance of such order, rule or regulation. Any party desiring to appeal shall file with the Board of Surface Mining Review a notice of appeal designating the order, rule or regulation appealed from, and send a copy thereof by registered mail to the Director.

Upon receipt thereof, the Board shall set the hearing at a place within the county where the major portion of the land involved in the order, rule or regulation appealed from is located and such hearing shall be held by the Board within sixty days from the date notice of appeal is received.

The Board shall have the power to subpoena and bring before it any person in this State or take testimony of any such person by deposition with the same fees and mileage in the same manner as prescribed by law in judicial procedure in courts of this State in civil cases. Any party to any hearings before the Board shall have the right to the attendance of witnesses in his behalf. (1968, c. 734; 1974, c. 312.)

The 1974 amendment deleted "or Division" following "Department" in the first sentence and "or the Chief issuing such" following "Director" at the end of the third sentence of the first paragraph.

§ 45.1-195. Board of Surface Mining Review created; membership; terms, vacancies; chairman; compensation; duty.—There is hereby created the Board of Surface Mining Review to be composed of the Director of the Department of Conservation and Economic Development and three members to be appointed by the Governor, two of whom shall be surface mining operators who have been engaged in such operation continuously for five years preceding their appointment, and one property owner who at the time of his appointment owns land or is an executive officer of a corporation which owns land upon which surface mining operations have been or are being conducted. The appointive members shall serve for terms of four years each, except appointments to fill vacancies which shall be for unexpired terms, all of whom shall hold office at the pleasure of the Governor for their respective terms. The Board shall elect its own chairman. The members of the Board shall receive no compensation for their services but shall be entitled to receive their necessary traveling and other expenses incurred in the performance of their duties. The sole duty of the Board shall be to hear appeals from orders issued by the Department under this chapter, and the procedure for determining such appeals shall be as provided by § 45.1-194. (1968, c. 734; 1974, c. 312.)

The 1974 amendment deleted "or Division" following "Department" in the last sentence.

§ 45.1-196. Appeals from Board of Surface Mining Review.

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-197. Local standards and regulations; waiver of application of chapter.—Counties, cities and towns may establish standards and adopt regulations dealing with the same subject, provided, however, such standards and regulations shall not be below those adopted by the Director.

This chapter shall not be construed to repeal any local ordinance or regulation or charter provision now in effect in any county, city or town where the provisions are not less than the standards adopted by the Director. The Director may waive the application of this chapter if, in his opinion, a county, city or town in which surface mining operations are being conducted has enacted zoning ordinances dealing with the subject matter, prescribing standards and regulations not below those set forth in this chapter. If the Director waives the provisions hereof, the operator shall comply strictly with all the provisions of the ordinances of such counties, cities, and towns in which his operations are located.

The Director may also waive the application of this chapter as to any mining or borrow pit operation which is conducted solely and exclusively for a State project and which is subject by contract to the control and supervision of a State agency, provided regulations satisfactory to the Director have been promulgated and are incorporated in any contract for such removal. (1968, c. 734; 1974, c. 312.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment deleted "Chief and" preceding "Director" at the end of the first paragraph and at the end of the first sentence of the second paragraph and substituted "Director" for "Chief" in the second and third sentences of the second paragraph and in two places in the third paragraph.

§ 45.1-197.1: Repealed by Acts 1974, c. 96.

Code Commission note.—The repealed section was enacted by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-197.2. Certain powers of Chief not affected by chapter.—Nothing in this chapter shall be construed to encroach on the powers and duties of the Chief of the Division of Mines and Quarries relating to the health and safety of the workers in underground and surface mining operations. In safety and health, all surface workers are to be governed solely by Title 45.1, chapters 1 through 14 (§§ 45.1-1 to 45.1-161) and such rules and regulations adopted by the Chief Mine Inspector as he may deem appropriate. (1974, c. 312.)

The number of this section was assigned by the Virginia Code Commission, the number in the 1974 act having been 45.1-197.1.

CHAPTER 17.—SURFACE MINING OF COAL

Article 1.—General Provisions

Article 1.—General provisions

§ 45.1-198. Legislative findings; declaration of policy.—(a) The General Assembly finds that, although the surface mining of coal within the Commonwealth provides a significant, present source of energy and employment, uncontrolled coal surface mining and unreclaimed land can adversely affect the environment through the erosion of the land and the increased likelihood of floods and landslides through the destruction of vegetative cover, the removal of overburden, the alteration of normal drainage patterns, the increased siltation and sedimentation of streams as well as other forms of pollution, the temporary and in some circumstances permanent destruction of scenic beauty and wildlife habitats.

(b) The General Assembly further finds that the proper control of surface mining of coal so as to minimize or prevent adverse disruptions and the injurious effects thereof requires thorough planning in selection of appropriate coal surface mining sites, methods of coal surface mining and the nature and extent of reclamation; consideration of the impact of coal surface mining upon the ecology and land use of surrounding areas as well as upon the disturbed land of the coal surface mining site; and the incorporation and use of control techniques and reclamation actions as an integral and simultaneous part of coal surface mining.

(c) The General Assembly declares that it is in the public interest and shall be the policy of this chapter to require and encourage the proper control of surface mining of coal so as to minimize or prevent adverse disruptions and injurious effects thereof upon the people and resources of the Commonwealth through good industry and sound conservation practices, and to require and encourage through operations and reclamation planning, consideration of surrounding ecology and land use, and incorporation of control techniques and reclamation actions in coal surface mining operations insofar as practicable to assure such proper control of coal surface mining. To these ends, the Director of Conservation and Economic Development is mandated to enforce this chapter and the Board of Conservation and

Economic Development is mandated to adopt whatever regulations are found necessary to accomplish the policy of this chapter.

(d) The General Assembly by this chapter intends to exercise the police power of this Commonwealth in a coordinated statewide program to control present and future problems associated with the surface mining of coal resources and the reclamation of disturbed lands to the end that coal surface mining activities shall be regulated in a manner that will effectuate the purpose of this chapter.

(e) Nothing in this chapter is intended, nor shall be construed, to limit, impair, abridge, create, enlarge or otherwise affect, substantively or procedurally, the rights of any person to any dispute involving property rights, or the right of any person to damage or other relief on account of injury to persons or property due to coal mining activities regulated by this chapter and to maintain any action or other appropriate procedure therefor; nor to affect the powers of the Commonwealth to initiate, prosecute and maintain actions to abate public nuisances. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

Law Review.—For survey of Virginia law on administrative law for the year 1971–1972, see 58 Va. L. Rev. 1159 (1972).

§ 45.1–199. Definitions.—The following words and phrases when used in this chapter shall have the meaning respectively ascribed to them in this section except where the context clearly requires a different meaning; the Board of Conservation and Economic Development shall have the power to adopt by regulation such other definitions as may be deemed necessary to carry out the intent of this chapter.

(a) *"Coal surface mine"* or *"coal surface mining"*—The breaking or disturbing of the surface soil or rock in order to facilitate or accommodate the extraction or removal of coal by strip, auger, or other mining methods; any activity constituting all or part of a process for the extraction or removal of coal so as to make it suitable for private, commercial, construction or industrial use.

(b) *"Disturbed land"*—The areas from which overburden has been removed in coal surface mining operations, the areas covered by spoil, or any other areas, including access roads, used in such surface mining operation which have been disturbed and may cause injurious effects thereby.

(c) *"Overburden"*—All of the earth and other material which lie above or around a natural deposit of coal.

(d) *"Spoil"*—Any overburden or other material removed from its natural state in the process of coal surface mining.

(e) *"Reclamation"*—The restoration or conversion of disturbed land to a stable condition which minimizes or prevents adverse disruption and the injurious effects thereof and presents a reasonable opportunity for further productive use.

(f) *"Director"*—The Director of the Department of Conservation and Economic Development or his authorized agents.

(g) *"Division"*—The Division of Mined Land Reclamation.

(h) *"Person"*—Any individual, firm, corporation or corporation officer, joint venture, partnership, association, trust, or any other group or combination acting as a unit, or any other legal entity.

(i) *"Operator"*—Any person engaging in the surface mining of coal whether or not such coal is sold within or without the State.

(j) *"Board"* shall mean the Board of Conservation and Economic Development. (Code 1950 (Repl. Vol. 1972), § 45.1–162; 1966, c. 667; 1968, c. 752; 1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1–200. Authority of Board and Director of Conservation and Economic Development; enforcement of chapter by injunction; construction of chapter.—(a) The authority to promulgate rules and regulations to effectuate the provisions and the policy of this chapter is hereby vested in the Board of Conservation and Economic Development and specifically includes the authority to regulate prospecting activities in general.

(b) The authority to administer and enforce the provisions of this chapter is hereby vested in the Director of the Department of Conservation and Economic Development. In administering and enforcing the provisions of this chapter, the Director shall exercise the following powers in addition to any other powers conferred upon him by law:

(1) To supervise the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder;

(2) To issue orders to enforce the provisions of this chapter, all rules and regulations promulgated thereunder, and the terms and conditions of any permit;

(3) To make investigations and inspections to insure compliance with any provision of this chapter or any rules, regulations, or orders promulgated thereunder;

(4) To encourage and conduct investigations, research, experiments and demonstrations, and to collect and disseminate information relating to coal surface mining and reclamation of lands and water affected by coal surface mining;

(5) To receive any federal funds, State funds or any other funds and to enter into any contracts, for which funds are available, to carry out the purposes of this chapter.

(c) In addition to any administrative remedy granted herein, the Director may petition any court of competent jurisdiction for an injunction against any violation of the provisions of this chapter, and the rules, regulations and orders promulgated thereunder or to compel the performance of acts required thereby without regard to any adequate remedy which may exist at law, said injunction to be issued without bond; however, with regard to the suspension of mining operations, § 45.1–210 shall control.

(d) Nothing in this chapter shall be construed to encroach on the powers and duties of the Chief of the Division of Mines and Quarries relating to the health and safety of the workers in underground and surface mining operations. In safety and health, all surface workers are to be governed solely by Title 45.1, chapters 1 through 14 (§§ 45.1-1 to 45.1-161) and such rules and regulations adopted by the Chief Mine Inspector as he may deem appropriate. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

Article 2.—Regulation of mining activity.

§ 45.1–201. Prospecting permit.—(a) It shall be unlawful for any person to use excavating equipment in an area for which no valid coal surface mine permit is in effect for the purpose of removing overburden to determine the location, or quantity or quality of a coal deposit, or to determine the feasibility of removing coal by surface mining methods without having first obtained from the Department of Conservation and Economic Development a permit therefor as provided in this section; provided, however, that no such permit shall be issued for more than ten acres. Application for a prospecting permit shall be made in writing on forms prescribed by the Director and shall be signed and verified by the applicant. The application shall be accompanied by: (1) a fee of ten dollars per acre based on the acreage estimated to be disturbed during prospecting as shown by a plat supplied by the applicant, provided this amount shall be credited towards the land disturbance fee required under subsection (f) of § 45.1–202 if such fee is paid for disturbance of land for which a prospecting fee was paid; (2) a United States geological survey topographic map showing by proper markings the crop line and the name, where known, of the seam or seams to be prospected; (3) a reclamation plan meeting the requirements of § 45.1–204 for the area proposed to be disturbed by prospecting; and (4), a bond meeting the requirements of § 45.1–206 in the amount of three hundred dollars per acre or fraction thereof for the total estimated disturbed acreage. The bond shall be payable to the State of Virginia and conditioned upon the applicant faithfully performing all the requirements of the reclamation plan. The bond shall be released by the Director in accordance with the provisions of § 45.1–206(b). Any excavation carried out under a prospecting permit and not incorporated into the complete reclamation plan as provided in paragraph (b) of this section shall be reclaimed as set forth in the rules and regulations.

(b) In the event the holder of a prospecting permit desires to surface mine the area covered by the prospecting permit, the Director may permit the postponement of the reclamation of the acreage prospected if that acreage is incorporated into a complete reclamation plan submitted with application for a coal surface mining permit within a period of three months following completion of each separate excavation under the prospecting permit. Provided that if such permit be granted, then the prospecting permit fee shall be a credit toward the fee to be paid by the operator as provided in § 45.1–202(f). (1972, c. 785; 1974, c. 573.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment substituted "ten dollars" for "six dollars" near the middle of subsection (a) and added the last sentence to subsection (b).

§ 45.1–202. Surface mining permit.—(a) It shall be unlawful for any person to engage in surface mining of coal in this State without having first obtained a permit to engage in such operation. Such permits shall be valid for one year, shall not be transferable, shall cover such acreage as contained in the application for a permit and shall be renewable annually on the anniversary date of issuance; provided, that the acreage may, in the discretion of the Director, be limited to two hundred fifty acres.

(b) Application for a surface mining permit shall be made to the Division on a form furnished by the Director and shall be signed and sworn to by the person, or his legal representative, intending to engage in surface mining of coal.

(c) The application shall contain such information as is required by regulation, including, but not limited to a description of the land to be disturbed and the coal to be extracted, the surrounding land use that

may be affected; identification of the person intending to engage in surface mining of coal, the owners of the land to be disturbed and the owners of the coal and mineral rights; the source of the applicant's legal right to enter and conduct operations on the land to be covered by the permit. Appended to the application shall be such maps and drainage plans as may be required by the Director.

(d) The application for a permit shall include a statement of any mining permits issued by the State and held, at the time of or prior to application, by the applicant or by any individual, corporation, partnership, association or any other legal entity of which or with which the applicant has or has had control or common control. If the Director finds that such permits have been revoked or bond or security thereunder forfeited, no permit shall be issued unless authorized by the Board in accordance with § 45.1–212.1.

(e) The application for a permit shall be accompanied by a fee of twelve dollars per acre of the area of land to be affected by the total operation for which plans have been submitted.

(f) A renewal fee of six dollars per acre shall be payable each year on the anniversary date of the permit for the amount of the undisturbed land remaining on the original permit. (Code 1950 (Repl. Vol. 1972), § 45.1–163; 1966, c. 667; 1968, c. 752; 1972, c. 785; 1974, cc. 573, 651.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendments.—This first 1974 amendment added the proviso at the end of subsection (a) and substituted "twelve dollars" for "six dollars" in subsection (e) and "six dollars" for "two dollars" in subsection (f).

The second 1974 amendment added "unless authorized by the Board in accordance with § 45.1–212.1" at the end of the second sentence of subsection (d).

Law Review.—For survey of Virginia law on administrative law for the year 1971–1972, see 58 Va. L. Rev. 1159 (1972).

§ 45.1–203. Operations plan to accompany application for permit for registration.—(a) The application for a permit for registration shall be accompanied by an operations plan in such form and with such accompanying material as the Director shall require, describing: (1) the proposed method of operation, including the manner, time, and distance for back filling and grading work where appropriate, and stating the nature and extent of anticipated adverse disruptions and injurious effects, reasonably foreseeable, as a result of the proposed coal surface mining operation, upon the land proposed to be disturbed and upon surrounding land use, both during the coal surface mining operations and after the conclusion of such operations, and (2) proposed control techniques to minimize or prevent such disruptions or effects.

(b) There shall be a drainage plan appended to the operations plan, which shall provide for the proposed scheme of drainage control in accordance with the regulations of the Board.

(c) In order to meet the purposes of this chapter, spoils shall be retained on the bench to the extent feasible in accordance with an approved operation plan and retained spoils are to be subsequently used for back filling to further reduce the ultimate highwall to the maximum extent practicable.

(d) The operations and drainage plans shall be an integral part of the terms and conditions of issuance of the coal surface mining permit. The provisions of these plans shall be carried out simultaneously with mining operations insofar as practicable. The plans may be amended to meet the exigencies of any unanticipated circumstance or event. (1972, c. 785; 1974, c. 573.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment reenacted this section without change.

§ 45.1–204. Reclamation plan to accompany application for permit for registration.—The application for a permit for registration shall be accompanied by a plan for reclamation of all disturbed land estimated to result from the coal surface mining for which the permit is sought The plan shall be in such form and with such accompanying material as the Director shall require and shall state: (1) the planned land use to which the disturbed land is to be returned through reclamation; (2) proposed actions to assure suitable reclamation of the disturbed land for the planned use to be carried out by the applicant as an integral part of the proposed coal surface mining operation and to be conducted simultaneously insofar as possible; and (3) all auger holes shall be entirely covered after the augering operation is completed.

Notwithstanding the provisions of subsection (c) of § 45.1–203 it shall be the policy of the Director to encourage adoption of more productive land use, such as pasture, agricultural use, recreational areas, sanitary landfills, industrial and building sites.

The reclamation plan shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto and shall be a part of the terms and conditions of the coal surface mining permit. The plan may be amended if required to meet the exigencies of any unanticipated circumstance or event. (Code 1950 (Repl. Vol. 1972), § 45.1–164; 1966, c. 667; 1972, c. 785; 1974, c. 573.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment added clause (3) at the end of the first paragraph.

§ 45.1-205. Review and approval or disapproval of application.—(a) The Director shall review the application along with all accompanying material, shall consider all other relevant factors relating to the issuance of the permit and recommend whether or not the permit should be issued. The Director shall approve the application only after he is satisfied that all the requirements of this chapter and rules and regulations adopted pursuant thereto are fully observed and that there is probable cause to believe that the operations and reclamation plans will be carried out consistent with the purposes of this chapter, but the Director shall approve or disapprove the application within thirty days following the receipt thereof; provided, in the discretion of the Director, for the purpose of obtaining such other necessary information as may be required, the time for approval or disapproval may be extended not to exceed ten days.

(b) In reviewing operations and reclamation plans, the Director shall have such advice and assistance of the local soil and water conservation districts, consulting agencies, and any agencies of the State charged with environmental responsibilities as he may request.

(c) The Director shall cause such inspections to be made of the land proposed to be coal surface mined and disturbed as he deems necessary to assure adequate review of the application, and refusal by the applicant or his representative to allow such inspection of the proposed coal surface mining site shall be grounds for refusal to approve the application.

(d) If in reviewing such plans, the Director finds that the operation will constitute a hazard to public safety; or that reclamation or proper drainage control is not feasible; or that any spoil would adversely affect an established water course; or that the operation would adversely affect a public park, certified historic landmark or recreational area, then he shall disapprove the application or, if feasible, approve the application after deleting such areas from the permit application as will remove the grounds of refusal hereinabove stated. (Code 1950 (Repl. Vol. 1972), § 45.1-166; 1966, c. 667; 1972, c. 785; 1974, c. 573.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefor never went into effect.

The 1974 amendment substituted "but the Director shall" for "but in no event shall the Director fail to" near the middle of the second sentence of subsection (a)) and added the language beginning "provided, in the discretion of" at the end of subsection (a).

§ 45.1–206. Bond of applicant; final report of operator; inspection and approval or disapproval of reclamation work.—(a) After approval of the application, and as a condition of issuance of the registration permit, the applicant shall be required to furnish bond, on a form prescribed by the Director, in the amount of no less than two hundred dollars or more than one thousand dollars per acre to be disturbed within the next ensuing year, and for which the operator has paid the permit fee, based on the estimated cost of reclaiming the land to be disturbed and the quality and quantity of coal estimated to be produced from the operation, conditioned upon the applicant's faithfully and satisfactorily complying with the approved operations and drainage plans and reclamation plan. In no event shall any bond be less than twenty-five hundred dollars; however, in the event the total amount of acreage to be distributed is less than five acres, the bond shall be not less than one thousand dollars. Such bond shall be with corporate surety licensed to do business in this State; provided, however, that in lieu of such surety the operator may deposit with the Director cash or certified check or collateral security acceptable to the Director. Upon satisfactory execution of bond, the Director shall issue a permit.

(b) Upon completion of the coal surface mining and reclamation for which the permit was issued, the operator shall submit a final report, on a form to be prescribed by the Director, stating that he has completed coal surface mining and reclamation in compliance with the approved operations, drainage, and reclamation plans and requesting release of bond. Upon receipt of such report, the Director shall cause an inspection to be made of the permit site. If the Director is satisfied that the requirements of the operations, drainage and reclamation plans have been fully complied with, and all fees have been paid, he shall approve the final operation, drainage and reclamation plans report and shall order the return of the bond; provided, however, that the Director shall approve or disapprove the final report within a period not to exceed one year from the date upon which he receives the final report from the operator. If the Director disapproves the final report, he shall notify the operator immediately in writing and advise him of what additional steps are deemed necessary to comply with the operations and reclamation plans. (Code 1950 (Repl. Vol. 1972), §§ 45.1–

165, 45.1-168; 1966, c. 667; 1968, c. 752; 1972, c. 785; 1973, c. 418.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1973 amendment, effective March 15, 1973, added "or collateral security acceptable to the Director" at the end of the third sentence of subsection (a).

§ 45.1-207. Disposition of fees.—All fees collected under the provisions of this chapter shall be paid into a special fund of the Department of Conservation and Economic Development under this chapter, to be used for the reclamation of orphaned lands pursuant to article 3 hereof (§ 45.1-216 et seq.) and for the administration of the coal surface mining regulatory program and are hereby appropriated for such purposes. (1972, c. 785; 1974, c. 573.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment inserted "and for the administration of the coal surface mining regulatory program" near the end of the section.

§ 45.1-208. Unlawful for owner to interfere with reclamation work; other mining operations on disturbed land.—It shall be unlawful for any owner or owners of surface rights or the owner or owners of mineral rights to interfere with the operator so as to hinder, delay, or prevent the discharge of his obligations to the State for the reclamation of lands disturbed by him. Provided, however, that if the owner or owners of surface rights or the owner or owners of mineral rights decide to conduct activities on the land disturbed by coal surface mining operations and such activities will delay, hinder or prevent the adequate reclamation of the disturbed land as set forth in the reclamation plan, the subject owner or owners shall be in all respects subject to the provisions of this chapter regardless of the activities contemplated, and specifically shall be responsible for reclamation of that portion of the disturbed area on which their activity occurs and shall give adequate bond pursuant to § 45.1-206. If these provisions have been complied with by the aforementioned owner or owners, the Director shall then release an equivalent amount of bond of the operator originally furnishing bond on the disturbed area. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-208.1. Succession of one operator by another at uncompleted project—Where one operator succeeds another at any uncompleted operation, whether by sale, assignment, lease, merger, or otherwise, the Director may release the first operator from all liability under this chapter as to that particular operation; provided, however, that the successor operator has been issued a permit and has otherwise complied with the requirements of this chapter, and the successor operator assumes as part of his obligation under this chapter, all liability for the reclamation of the area of land affected by the first operator. No fee, or any portion thereof, paid by the first operator shall be returned to either operator. The permit fee for the successor operator for the area of land permitted by the first operator shall be the same as that for a renewal fee under § 45.1-202. The permit fee for the successor operator shall be valid for one year from the date of issuance and may be renewed thereafter in accordance with the provisions of this chapter. (1974, c. 573.)

§ 45.1-209. Notice of noncompliance; revocation of permit and forfeiture of bond.—The Director may cause a notice of noncompliance to be served on the operator whenever the operator fails to obey any order by the Director to:

(1) Apply the control techniques in his operations and drainage plans;

(2) Institute the actions approved in his reclamation plan;

(3) Follow any required amendments to the operations or reclamation plans; or

(4) Comply with any other requirement of this chapter or any rules or regulations promulgated pursuant thereto.

A copy of the notice shall be delivered to the operator or served by certified mail addressed to the operator at the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to obey the order of the Director and shall require the operator to comply with the order within a reasonable period of time as fixed by the Director, following service of the notice. If the operator has not complied with the requirements set forth in the notice of noncompliance within the time limits fixed therein, the Director shall revoke the permit and declare the forfeiture of the entire bond, which when collected, shall be deposited in the State treasury in a special reclamation fund to be used by the Director in performing reclamation under the provisions of this chapter. After completion of the reclamation and payment of all fees required by this chapter, any additional funds from the forfeiture of the bond shall be returned to the corporate surety. If a certified check or cash has been deposited in lieu of bond, any residue shall be returned to the person who provided same originally or the operator. (Code 1950 (Repl. Vol. 1972), § 45.1-168; 1966, c. 667; 1968, c. 752; 1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-210. Injunction prohibiting mining operations.—Whenever adverse ecological disruptions or other injurious effects of mining operations seriously threaten or endanger health, safety and property rights of any individual, and abatement is not feasible by the application of control techniques, the Director shall petition the court of record having general equity jurisdiction wherein such mining operations are located, for an injunction to prohibit further operations. Upon granting such injunction, the court may require the Director to post a bond in the amount such court deems advisable. Such injunction shall not relieve the operator from his duty to reclaim lands theretofore disturbed according to the terms and conditions of his permit. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-211. Performance of reclamation operations by Director.—In the event of forfeiture of bond, the Director shall perform such reclamation operations as he deems necessary to return disturbed land to the minimum planned land use, pursuant to the relevant operation, drainage, and reclamation plans, the cost of such reclamation to be paid from the proceeds of the special reclamation fund created for that purpose. He may use the resources and facilities of the Division or he may enter into contracts for performance of such reclamation with any individual, corporation, partnership, association or any other legal entity, any soil conservation district, or any agency of the State or federal government. After a contract is entered into by the Director with anyone other than the operator, the operator shall be relieved from all further responsibility in reference to reclamation of the disturbed land. (Code 1950 (Repl. Vol. 1972), § 45.1-168; 1966, c. 667; 1968, c. 752; 1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-212. Position of hearings officer established; hearings.—(a) There is hereby established the position of hearings officer within the Department of Conservation and Economic Development. The incumbent to the position shall be appointed by the Director subject to the approval of the Board. The duties of the hearings officer shall be to conduct hearings as set forth in § 9-6.10(a) of the Code of Virginia. The conduct of such hearings shall conform to the provisions of §§ 9-6.10 through 9-6.12 of the Code of Virginia.

Any operator who is aggrieved by the action or inaction of the Director, acting pursuant to the provisions of this chapter, who is entitled to a formal hearing by virtue of § 9-6.10(a) of the Code of Virginia shall be afforded such hearing by the hearings officer.

(b), (c) [Repealed.] (1972, c. 785; 1974, c. 651.)

Code Commission note.—This section was repealed by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was itself repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

The 1974 amendment deleted subsections (b) and (c) dealing with review of hearing decisions by the Board of Conservation and Economic Development.

§ 45.1-212.1. Review by Board.—(a) If upon completion of the hearing by the hearings officer, compilation of the record and a final decision rendered by the hearings officer with the advice of the Director, any person is still aggrieved as a result of such judgment of the hearings officer, he may apply to the Board of Conservation and Economic Development for review of the case. This application must be made within sixty days after the final decision rendered by the hearings officer.

(b) The Board of Conservation and Economic Development shall review the record and hear oral arguments or receive written memoranda on the merits of the case; however, the Board need not receive further evidence unless it is alleged that additional evidence is available which may materially affect the outcome of the review.

(c) Thereafter, the Board shall announce its decision in the manner provided by § 9-6.12.

(d) If the Board approves such findings and conclusions in a matter in which a permit has been revoked and a bond forfeited, it may, in its discretion, set terms and conditions under which the operator may again be eligible for a permit. These terms and conditions shall be based on the particular circumstances existing in each individual case.

(e) Any operator who has been aggrieved by a decision issued by the Board prior to July one, nineteen hundred seventy-four, in a matter in which a permit has been revoked and a bond forfeited, may petition

the Board for reconsideration under this section. (1974, c. 651.)

§ 45.1-213. Appeal from decision of Board or hearings officer.—Any operator who is aggrieved by an opinion issued by the Board of Conservation and Economic Development or hearings officer shall have the right of appeal to the circuit court of the county or corporation court of the city in which the land or a major portion thereof which is involved in the opinion appealed from is located. Such appeal shall be filed within twenty-one days after the opinion of the Board or hearings officer is rendered. The filing of an appeal hereunder shall not automatically stay the effect of the opinion appealed from, but, if on application to the court, undue hardship is shown to result, the court in its discretion may suspend the execution thereof and fix the terms. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-214. Misdemeanors.—(a) It shall be a misdemeanor, punishable by a fine of not more than one thousand dollars or confinement in jail for a period not exceeding one year or both, for any person: (1) to surface mine for coal without first obtaining a permit or after a permit has lapsed, or after suspension or revocation of a permit; (2) to obtain a permit through the deliberate submission of false or misleading information; (3) to fail willfully to follow the approved control techniques or actions set forth in his operation, drainage, or reclamation plans in any significant particular; or (4) to disregard willfully or disobey the regulations or orders promulgated pursuant to the provisions of this chapter.

(b) Continuation of the offenses specified in subsections (3) and (4) of paragraph (a) of this section shall be deemed willful after delivery of written notice of the terms of the violation by the Director to the permit holder pursuant to § 45.1-209 or the evasion of, or the refusal to accept, delivery of such notice.

(c) Each day that the offenses specified as subsections (1), (3), and (4) of paragraph (a) of this section continue shall constitute a separate violation. (1973, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-215. Operators holding permits issued under former chapter 15; chapter 15 continued in effect for certain purposes.—Any operator holding a valid permit issued pursuant to the provisions of chapter 15 of Title 45.1 shall comply with all of the provisions of this chapter on July one, nineteen hundred seventy-two or be considered to be in violation of subsection (a) (1) of § 45.1-214 as to mining operations conducted after July one, nineteen hundred seventy-two. Any permits issued under § 45.1-163 shall be renewable and subject to such renewal fee contained in § 45.1-202(f). If, however, in the opinion of the Director such operator cannot comply with the provisions of this chapter on its effective date, the Director may, upon payment of the fees herein prescribed pursuant to subsection (f) of § 45.1-202 issue a permit conditioned upon the future compliance with all of the provisions of this chapter.

The provisions of chapter 15 are continued in effect as to reclamation of land on which mining operations were completed prior to July one, nineteen hundred seventy-two. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

Articles 3.—Orphaned lands

§ 45.1-216. Definition.—For the purpose of this article, the term "orphaned lands" shall mean lands disturbed by coal surface mining operations which were not required by law to be reclaimed or which have not in fact been reclaimed. (1972, c. 785.)

Law Review.—For survey of Virginia law on administrative law for the year 1971-1972, see 58 Va. L. Rev. 1159 (1972).

§ 45.1-217. Survey; priorities for reclamation.—The Director shall cause a survey to be conducted to determine the extent of the orphaned lands in this State and shall establish priorities for the reclamation thereof. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-218. Agreements with owners or lessees; reclamation by Director.—The Director is authorized to enter into agreements with owners or lessees of orphaned lands whereby the owners shall agree to the reclamation of such lands by the Division to the extent and in the manner deemed appropriate or feasible by the Director. In no event shall the Director return orphaned land to other than the minimum potential use thereof which obtained prior to the initiation of mining operations unless the landowner or owners, lessee or lessees, agree to bind himself or themselves to the payment of the additional cost upon such terms as the Director deems reasonable. In entering into such agreements, the Director shall be guided by the priorities for reclamation established by him, but in no event shall the Director enter into such agreement unless funds are immediately available for the performance of the agreement by the Director as hereinafter provided. (Code 1950 (Repl. Vol. 1972), § 45.1-179; 1966, c. 667; 1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-219. Contracts for reclamation.—The Director is authorized to contract with any State agency, federal agency, or private contractor through the Division for the purpose of reclaiming orphaned lands pursuant to the agreements herein specified. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

§ 45.1-220. Acceptance of federal funds, gifts, etc.—The Director is authorized to accept federal funds or gifts or grants from any source for the purposes of this article and is further authorized to acquire by gift or purchase (but not by the exercise of the power of eminent domain) such orphaned lands as in his judgment is in the public interest and to utilize any such funds, gifts or grants, as well as any fees collected under the provisions of this chapter for the reclamation of such orphaned lands. (1972, c. 785.)

Code Commission note.—This section was amended by Acts 1973, c. 471. The 1973 act, which was made effective July 1, 1974, and provided that it should expire at midnight on that date unless earlier reenacted, was repealed by Acts 1974, c. 96, effective March 22, 1974, and therefore never went into effect.

CHAPTER 18. REFUSE PILES, WATER AND SILT RETAINING DAMS

Sec.

45.1-221. Reports to be filed by operators of coal mines within 60 days of July 1, 1974.

45.1-222. Dams and refuse piles to be constructed, approved, etc., by qualified engineer; designs and other data to be submitted to Chief Mine Inspector.

45.1-223. Reports to be filed by operators of coal mines within 120 days of July 1, 1974.

45.1-224. Examination of dams and refuse piles; potentially hazardous conditions; plans to be submitted by operators.

45.1-225. Definitions.

§ 45.1-221. Reports to be filed by operators of coal mines within 60 days of July 1, 1974.—Within sixty days following July one, nineteen hundred seventy-four, the operator of a coal mine on which refuse piles are located shall report the location, height, other dimensions including the original groundline as shown on an applicable United States Geological Survey topographical map, the average elevation over which the refuse material is piled, and the average ground elevation and direction of pitch of the area within two hundred feet of the refuse pile to the Chief Mine Inspector, Division of Mines and Quarries, State of Virginia. The report shall also show:

(1) whether or not the refuse pile is burning;

(2) Whether or not water or silt is impounded behind the refuse pile; and

(3) The measures, if any, being taken by the operator to extinguish any fire or drain any impounded water or silt. (1974, c. 323.)

§ 45.1-222. Dams and refuse piles to be constructed, approved, etc., by qualified engineer; designs and other data to be submitted to Chief Mine Inspector.—(a) On and after July one, nineteen hundred seventy-four, new water or silt retaining dams, or a mine refuse pile, or the modification of existing mine water or silt or mine refuse retaining dams shall be designed and constructed by, or under the direction of, a qualified engineer, if such retaining dam:

(1) Is designed to impound water or silt to a height of five feet or more above the lowest natural ground level within the impounded area; and

(2) Has a storage volume of fifty acre-feet or more; or

(3) Is designed to impound water or silt to a height of twenty feet or more, regardless of storage volume.

(b) Water or silt retaining dams or a mine refuse pile in existence prior to July one, nineteen hundred seventy-four, which impounded the volume of water or silt specified in paragraph (a) of this section, shall, within one hundred twenty days from July one, nineteen hundred seventy-four, be approved as structurally safe for the volume of water or silt impounded therein by a qualified engineer. The operator shall, in accordance with the requirements of paragraph (a) of this section, make any construction modifications necessary to obtain such approval.

(c) Water and silt retaining dam or mine refuse piles, designs, construction specifications, and other related data, including final

abandonment plans, shall be approved and certified by the qualified engineer specified in paragraph (a) of this section, and by the operator or his agent.

(d) The designs, construction specifications, and other related data approved and certified in accordance with paragraph (c) of this section shall be submitted for approval to the Chief Mine Inspector, Division of Mines and Quarries. If the submittal is approved by the Chief, he shall notify the operator in writing. If he disapproves, he shall notify the operator with his written objections thereto and his required amendments. But in no event shall the Chief fail to approve or disapprove the submittal within thirty days following the receipt thereof. (1974, c. 323.)

§ 45.1-223. Reports to be filed by operators of coal mines within 120 days of July 1, 1974.—On or before one hundred twenty days from July one, nineteen hundred seventy-four, the operator of a coal mine on which a water or silt retaining dam or a mine refuse pile is located shall report to the Chief Mine Inspector, Division of Mines and Quarries, the location, width, height above the lowest natural ground level within the impounded area; the average depth of the impounded volume of silt and water; the storage capacity of the dam; the volume of silt or water currently impounded. (1974, c. 323.)

§ 45.1-224. Examination of dams and refuse piles; potentially hazardous conditions; plans to be submitted by operators.—(a) All water and silt retaining dams or mine refuse piles shall be examined daily for visible structural weakness, volume overload and other hazards by a qualified person designated by the operator. When rising water and silt reaches eighty percent by volume of the safe design capacity of the dam, such examination shall be made more often as required by the Chief Mine Inspector or his designated agent. Frequent examinations must be made during periods of rainfall that could create flooding conditions.

(b) When a potentially hazardous condition exists, the operator shall initiate procedures to:

(1) Remove all persons from the area which may reasonably be expected to be affected by the potentially hazardous condition;

(2) Eliminate the potentially hazardous condition; and

(3) Notify the Chief Mine Inspector or the District Mine Inspector in whose area the retaining dam is located.

(c) Records of the inspection required by paragraph (a) of this section shall be kept and certified by the operator or his agent. Such records shall be kept on the surface at the office or designated station of the mine.

(d) The operator of each coal mine on which a water and silt retaining dam is located shall adopt a plan for carrying out the requirements of paragraphs (a) and (b) of this section. The plan shall be submitted for approval to the Chief Mine Inspector on or before October thirty-one, nineteen hundred seventy-four. The plan shall include:

(1) A schedule and procedures for inspection of the retaining dam by a qualified person;

(2) Procedures for evaluating potentially hazardous conditions;

(3) Procedures for removing all persons from the area which may reasonably be expected to be affected by the potentially hazardous conditions;

(4) Procedures for eliminating the potentially hazardous conditions;

(5) Procedures for notifying the Chief Mine Inspector; and

(6) Any additional information which may be required by the Chief Mine Inspector.

(e) Before making any changes or modifications in the plan approved in accordance with paragraph (d) of this section, the operator shall obtain approval of such changes or modifications from the Chief Mine Inspector, State of Virginia. (1974, c. 323.)

§ 45.1-225. Definitions.—For the purpose of this chapter the term

(a) *"Impound water"* means to impound water for use in carrying out any part of the process necessary in the production or preparation of coal or other minerals.

(b) *"Silt"* means fine particles resulting from a mining operation, suspended in or deposited by water.

(c) *"Refuse"* means waste material resulting from a mining operation of coal or other minerals.

(d) *"Water,"* as used in this chapter, means water used in mining operations. (1974, c. 323.)

PROMPT ENACTMENT OF SURFACE MINING CONTROLS IS NEEDED

Mr. MUSKIE. Mr. President, it is past time for the Federal Government to require protection of the land resources of America from the environmental damage caused by unregulated or inadequately controlled strip mining. Millions of acres of land in America have been lost or are threatened as a result of inadequate concern for the long term effects of strip mining.

Short-term effects of such activities have been ignored. Many people have been left homeless by irresponsible elements of the surface mining industry.

The lasting damage of uncontrolled or improperly regulated mining activities is evidenced by thousands of miles of polluted streams and barren land.

Last year's veto of this legislation was unwise. We needed this legislation years ago. Further delay caused by the necessity to enact this bill once again only means that more acres will be destroyed before adequate controls are placed on these activities.

To compromise this legislation further by weakening environmental standards in the hope that we might attract the support of the President would be equally unwise. The bill before us already is a compromise.

I want to compliment the members of the Committee on Interior and Insular Affairs for the work that they have done in pressing forward with this legislation early in this Congress. The distinguished floor leader, Senator METCALF, is to be complimented for his effort to bring out a bill which represents a significant progress toward effective protection of regional and national interests.

There are provisions in the legislation that have raised questions, which could use clarification. To date the Congress has, in environmental legislation, asserted specifically the rights of States and localities to enact more stringent environmental controls if deemed appropriate.

Section 505(b) of this law appears to continue past precedents in this area. This language protects the States from Federal preemption with regard to land use and strip mining laws. The language which appears on page 52, line 7, and states that protection is given to State law "which provides for more stringent land use and reclamation operations." I am assured by the committee that this language is broad in its construction and would include any air or water pollution controls established by States in association with land use and strip mining laws.

Another concern relates to the language on pages 46 to 47, which requires:

(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).

To clarify this language in the form of legislative history, I would point out that States do not meet "air or water quality standards," the phrase used in this text, but rather meet pollution control requirements, such as emission and effluent limits which are the enforcement mechanism. I know that it was the intention of the members of the Interior Committee to require that all aspects of the air and water pollution control requirements be met and, therefore, I merely make this statement in order to clarify the record.

Finally, Mr. President, I am particularly concerned with the language on page 84, lines 12 through 20, which is section 515(b)(10)(B), which states:

(B) conducting surface coal mining operations so as to prevent to the maximum extent possible, using the best available technology, 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.

The purpose here again is laudable. The best technology available ought to be used to control pollution. My only point in discussing this measure is that it should not be viewed as the final possible requirement. It is entirely possible, under the Federal Water Pollution Control Act, that even with the use of the best available technology, the discharge from the mining activity might be such that the mining activity could not be done in compliance with that act. In that case, even the best available technology would not be sufficient to allow the mining to go forward. This is a concept which was dealt with extensively in both the air and water pollution control laws. I am sure that the intent of this amendment was to leave that stringent requirement in place and to simply insure that the best technology be used when pollution control laws allowed such discharge to occur. Rather than offer any language to amend this provision, I believe it is sufficient to simply clarify this matter in this discussion.

Once again, I commend the members of the Senate Interior Committee for the work they have engaged in over the last few years bringing this legislation forward. I hope that my colleagues will endorse it, and certainly urge the President to reconsider his veto and to sign the legislation this time when it is sent to his desk.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed,

the question is on the engrossment and third reading of the bill.

The bill (S. 7) was ordered to be engrossed for a third reading, and was read the third time.

Mr. METCALF. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, will the manager of the bill yield me 1 minute for a motion?

Mr. METCALF. My time has expired.

The PRESIDING OFFICER. There is no time remaining.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. TAFT) are absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 84, nays 13, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—84

Abourezk	Griffin	Montoya
Allen	Hansen	Morgan
Baker	Hart, Gary W.	Moss
Bayh	Hart, Philip A.	Muskie
Beall	Hartke	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hatfield	Packwood
Biden	Hathaway	Pastore
Brock	Hollings	Pearson
Brooke	Huddleston	Pell
Buckley	Humphrey	Percy
Bumpers	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Johnston	Roth
Case	Kennedy	Schweiker
Chiles	Leahy	Scott, Hugh
Church	Long	Sparkman
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevens
Culver	Mathias	Stevenson
Dole	McClellan	Stone
Domenici	McClure	Symington
Eagleton	McGee	Talmadge
Fong	McGovern	Thurmond
Ford	McIntyre	Tunney
Glenn	Metcalf	Weicker
Gravel	Mondale	Williams

NAYS—13

Bartlett	Fannin	Scott, William L.
Byrd, Harry F., Jr.	Garn	Stennis
Curtis	Helms	Tower
Eastland	Hruska	Young
	Laxalt	

NOT VOTING—2

Goldwater	Taft

So the bill (S. 7), was passed, as follows:

S. 7

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, agriculture, 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 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 field 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 MAINTENANCE

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 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 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 local 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.

TITLE III—STATE MINING AND MINERAL RESOURCES AND RESEARCH INSTITUTES

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, or a curriculum which provides for, substantial instructions and research in mining or minerals extraction or which establishes such a school of mines, division, department, or curriculum subsequent to the enactment of this title and which school of mines, division, department, or curriculum shall have been in exitsence for at least two years. The Advisory Committee on Mining and Minerals Resources Research as created by this title shall determines a college or university to have an eligible school of mines, division, department, or curriculum providing a program of substantial instruction and research in mining or minerals extraction wherein or pursuant to which education and research in the minerals engineering fields are being carried out and which qualifies students participating therein for careers in mining education, mining research, mining industry, or other related fields:

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;

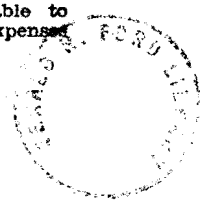
(2) if there is more than one such eligible college or university in a State, funds under this title shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to one such college or university designated by the Governor of the State; and

(3) where a State does not have a public college or university with an eligible school of mines, or division, or department or curriculum conducting or providing for 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, or curriculum 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. Such research, investigations, demonstrations, 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 national 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 institutes.

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 disbursements on schedules prescribed by the Secretary. If any of the moneys received by the authorized receiving officer of any 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 shall 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 construed 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 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 twenty-five 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 shall be paid each calendar quarter occurring after the date of enactment of this Act, beginning with the first calendar quarter (or part thereof) occurring after such date of enactment and ending ten years after the date of enactment of this Act unless extended by an Act of Congress.

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

OBJECTIVES OF FUND

SEC. 402. Objectives for the obligation of funds shall reflect the following priorities in order stated:

(a) reclamation of previously mined areas;

(b) the protection of health or safety of the public;

(c) protection of the environment from continued degradation and the conservation of land and water resources;

(d) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities and their use;

(e) the improvement of lands and water to a suitable condition useful in the economic and social development of the area affected; and

(f) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

ELIGIBLE LANDS

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

RECLAMATION OF RURAL LANDS

SEC. 404. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements, of not more than ten years with landowners (including owners of water rights) residents and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, 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 landowners, 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 shall not exceed 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred acres of land occupied by such owner including water rights owners, resident or tenant, or on not more than one hundred acres of land which has been purchased jointly by such landowners including water rights owners, residents, or tenants under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where he determines that (1) the main benefits to be derived from the project are related to improving off-site water quality, off-site esthetics values, or other off-site benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

(e) The Secretary of Agriculture may terminate any agreement with a landowner including water right 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 UNCLAIMED 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 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 taken 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.

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

(b)(1) The Secretary is authorized to use money in 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 money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

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

(4) The Secretary may make expenditures to carry out the 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 facilities.

FILLING VOIDS AND SEALING TUNNELS

SEC. 406. (a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from any mining operation 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 Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

FUND REPORT

SEC. 407. Not later than January 1, 1976, 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 minded 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 a 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 subsections 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 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;

(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 au-

thority 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 an 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 sections 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 no later than thirty months after the date of enactment of this Act 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 if a Federal program is implemented for a State, subsections 552 (a), (c), and (d) shall not apply for a period of one year following the date of such implementation. 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 ongoing 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) After six months from the date of approval of the State program or the implementation of the Federal program, 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 valid permit from the State regulatory authority 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) Unless otherwise provided in the permit, 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 jeopardise 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 appliction 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 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 addresses 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 area 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 of 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 surface 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 thickness 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 term 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 foundaiton 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); and 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 rgeulations 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 offsite, 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 the 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 authorization 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 applicants, 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 to the maximum extent possible, using the best available technology, 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 being considered for such designation (unless in such an area as to which an administrative proceeding has commenced pursuant to section 522(a)(4)(D) of this Act, the operator making the permit application demonstrates that, prior to September 1, 1974, 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 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.

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

(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 advertisment 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 reasons 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 operation as a minimum to—

(1) conduct surface coal mining opeeations 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 dimunition 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 policies 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 highwalls, spoil piles and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized 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 the 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 is insufficient, 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 materials 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 overburden 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 plan 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 at 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 maximum extent possible, using the best available technology, 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 mined area to approximate premining conditions;

(E) replacing the water supply of an owner of any 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 source other than a subterranean stream channel where such supply has been affected by contamination, diminution, or interruption proximately resulting from mining;

(F) preserving to the maximum extent possible, using the best available technology, 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 according 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 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 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 and which at a minimum, is compatible with that of structures constructed under Public Law 83-566, (16 U.S.C. 1006); 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; and that the structures are located so as to minimize danger to the health and safety of the public if failure should occur;

(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 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 success-

ful 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 were 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 comment on the proposed use;

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

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

(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, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut, except that where necessary soil and 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 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 approximately 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 this 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 to 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 highwall 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 "steep-slope" 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 workings or excavations, stabilize all waste piles created by the permittee from current 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 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 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 and which, at a minimum, is compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006); that the 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 and that the structures are located so as to minimize danger to the health and safety of the public if failure should occur;

(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 maximum extent possible, using the best available technology, 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) 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;

(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 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 owed 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 appropriate 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 525 of this Act or fails or refuses to

comply with any order issued under 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 704 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 521 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 704 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 programs 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 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 a 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 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 set forth in the permit.

(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, subpena 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.

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

(1) against any person including—

(A) the United States,

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution, and

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

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

(b) No action may be commenced—

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

(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; 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 any rule, regulation, order, or permit issued pursuant to this Act, 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 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 any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (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 that 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 environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a) (5) of this section.

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

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 repesentative 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 finds 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 reprersentative 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 permit.

(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 an 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 failure 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 law 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 designed 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 un-

der 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.

(7) The regulatory authority shall render a decision upon a petition within one year from the date of submittal pursuant to this section. Failure of the regulatory authority to render a decision, however, shall not prevent the issuance of a permit.

(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: *Provided, however,* That the Secretary may permit surface coal mining on Federal lands prior to the completion of this review. 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 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 roads 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 will 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 713 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 any 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 require as one of the terms and conditions of any permit, lease, or contract to surface mine coal owned by the United States, that the lessee, permittee, or contractor give satisfactory assurances 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. Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to the provisions of subparagraphs (a) (2) or (3) of section 521 of this title, the Secretary shall issue the written decision within thirty days of the receipt of the application for review, unless temporary relief has been granted by the Secretary pursuant to subparagraph (c) of this section or by a United States district court pursuant to subparagraph (c) of section 526 of this title.

(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 shall issue an order or decision granting or denying such relief expeditiously: *Provided,* That where the applicant requests relief from an order for cessation of coal mining and reclamation operations issued pursuant to subparagraphs (a) (2) or (a) (3) of section 521 of this title, the order or decision on such a request shall be issued within five days of its receipt. 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 except where the applicant requests relief from an order for cessation of coal mining and reclamation

operation issued pursuant to subparagraphs (a)(2) or (a)(3) of section 521 of this title;

(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 written 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, including an order or decision issued pursuant to subparagraph (c) of section 525 of this title pertaining to any order issued under subparagraph (a)(2) or (a)(3) of section 521 of this title for cessation of coal mining and reclamation operations, 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 operation;

(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 coal being mined has been owned or controlled by the operator of the mine since February 27, 1975; and

(h) 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 warrants 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.

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.

(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 (1) the potential mineral resources of the area, (2) the demand for such mineral resources, and (3) 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 court for the district in which the pertinent area is located.

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 and impacts incident to an underground coal mine, 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: *Provided, however,* That reclamation operations may, as agreed between the Secretary and the Governor of any State pursuant to a 'State program,' be applied to voids and open and abandoned tunnels, shafts, and entryways caused by underground mining for other types of minerals than coal;

(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 Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests 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" mean 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 substance 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)(21) 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.

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

INTERSTATE MINING COMPACT

SEC. 703. In the approval of "State programs," in allotments to "institutes," and in grants to States, the Secretary shall recognize the efforts of the Interstate Mining Compact in gathering and disseminating information and statistics and in coordinating efforts to obtain the most efficient methods of reclamation.

EMPLOYEE PROTECTION

SEC. 704. (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 amount 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 554 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. 705. 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. 706. (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. 707. 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.

PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT

SEC. 708. (a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title IV and for research and demonstration projects pursuant to section 716 of this Act the Secretary shall develop regulations which will accord a preference to surface coal mining operators who can demonstrate that their surface coal mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface coal mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE

SEC. 709. (a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of Government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) (1) The Secretary of Labor shall make grants, in accordance with regulations prescribed by him, to States to provide cash benefits to any individual who loses his job in the coal mining industry as a direct result of the closure of a mine which closed as a direct result of the administration and enforcement of this Act, and who is not eligible for unemployment assistance or who has exhausted his rights to such assistance (within the meaning of paragraph (4) (B)).

(2) Regulations of the Secretary of Labor under paragraph (1) may require that States enter into agreements as such regulations—

(A) shall provide that—

(i) a benefit under this subsection shall be available to any individual who is unemployed as a result of the administration and enforcement of this Act as defined in subsection (b) (1) of this section, and who is not eligible for unemployment assistance;

(ii) a benefit provided to such an individual shall be available to such individual for any week of unemployment which begins after the date on which this Act is enacted;

(iii) the amount of a benefit with respect to a week of unemployment shall be equal to—

(I) in the case of an individual who has exhausted his eligibility for unemployment compensation payment for which he was most eligible; or

(II) in the case of any other individual, an amount which shall be set by the State in which the individual was last employed at a level which shall take into account the benefit levels provided by State law for persons covered by the State's unemployment compensation program, but which shall not be less than the minimum weekly amount, nor more than the maximum weekly amount, under the unemployment compensation law of the State; and

(B) may provide that individuals eligible for a benefit under this subsection have been employed for up to one month in the fifty-two-week period preceding the filing of a claim for benefits under this subsection.

(3) Unemployment resulting from the administration and enforcement of this Act shall be defined in regulations of the Secretary of Labor, consistent with the provisions of subsection (b) (1) of this section. Such regulations shall provide that such unemployment includes unemployment clearly attributable to such administration and enforcement. The determination as to whether an individual is unemployed as a result of such administration and enforcement (within the meaning of such regulations) shall be made by the State in which the individual was last employed in accordance with such industry, business, or employer certification process or such other determination procedure (or combination thereof) as the Secretary of Labor shall, consistent with the purposes of paragraph (1) of this subsection, determine as most appropriate to minimize administrative costs, appeals, or other delay, in paying to individuals the cash allowances provided under this section.

(4) For purposes of this subsection—

(A) an individual shall be considered unemployed in any week if he is—

(i) not working

(ii) able to work, and

(iii) available for work,

within the meaning of the State unemployment compensation law in effect in the State in which such individual was last employed, and provided that he would not be subject to disqualification under that law for such week, if he were eligible for benefits under such law;

(B) (i) the phrase "not eligible" for unemployment assistance means not eligible for compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada; and

(ii) the phrase "exhausted his rights to such assistance" means exhausted all rights to regular, additional, and extended com-

pensation under all State unemployment compensation laws and chapter 85 of title 5, United States Code, and has no further rights to regular, additional, or extended compensation under any State or Federal unemployment compensation law (including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.)) with respect to such week of unemployment, and is not receiving compensation with respect to such week of unemployment under the unemployment compensation law of Canada.

SEVERABILITY

SEC. 710. 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. 711. (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 in existence on the date of the 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. 712. (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 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. 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. 713. (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 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 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 stringest 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 charge 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 715(a) shall be reserved for this purpose.

EXPERIMENTAL PRACTICES

SEC. 714. 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 practies do not reduce the protection afforded public health and safety below that provided by promulgated standards.

AUTHORIZATION OF APPROPRIATIONS

SEC. 715. 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, 552, 405(b)(3), and 713 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. 716. (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 maximize 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. 717. (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. 201(a)), 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 subsection (e).

(e) The value of the surface owner's in-

terest 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 apopinted 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 paragraph (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 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 sequiescence prior to February 27, 1975, of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface coal mining methods.

FEDERAL LESSEE PROTECTION

SEC. 718. 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.

UNITED STATES SURFACE OWNER

SEC. 719. Notwithstanding the provision of section 717 of this Act or of any other law requiring the consent of the surface owner, in any case in which the surface right of any area is owned by the United States (other than in a trust status) and the subsurface rights to such area are owned by any person or entity other than the United States, the owner of such subsurface right shall be permitted to mine coal from such area without the consent of the surface owner unless such area has been withdrawn by law from all forms of mining operations.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. METCALF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STONE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR METCALF AND OTHER SENATORS ON PASSAGE OF SURFACE MINING ACT

Mr. MANSFIELD. Mr. President, the Senate today may be proud of the splendid manner by which the surface mining measure was disposed of. Our deepest thanks and commendation go to the extremely able Senator from Montana, my distinguished colleague LEE METCALF. Especially is the Senate in his debt for his expert handling of this measure. Both in committee and on the floor of this Chamber his able advocacy assured its overwhelming success. The Senate's gratitude goes as well to the distinguished Senator from Washington, HENRY JACKSON. As always, Senator JACKSON expressed his views with clarity and sincerity. His support was assential to the expeditious handling of this bill.

Joining with notable and indispensible contributions to the overall debate were the Senator from Arizona (Mr. FANNIN) and the Senator from Wyoming (Mr. HANSEN). Each deserves the highest commendation of the Senate for the splendid manner in which they cooperated to move the measure through to final passage. The urged their own strong and sincere views on certain features of the bill with great skill and ability. The Senate is grateful.

The leadership commends the entire

Senate for its diligence in disposing of this measure in a thoughtful and thorough way. It contains items of surpassing importance to the future of this Nation. It is an accomplishment for which the entire Senate may be proud.

Mr. FANNIN. Mr. President, I want to express my appreciation to the distinguished Senator from Montana for all the courtesy extended to the minority during debate on this bill and to express my great appreciation to my colleague from Wyoming for his great work on this.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate so that the Senator may be heard?

The PRESIDING OFFICER. May we have quiet, please.

Mr. FANNIN. Although the Senator from Arizona was not successful in his attempt to make several amendments that I think would have been very important as far as the bill is concerned, the Senator——

The PRESIDING OFFICER. The Senator from Arizona will please cease.

May we have order in the Senate, may we have quiet.

The Senator will proceed.

Mr. FANNIN. The Senator from Montana was patient, understanding, and gave every consideration to any Member who wanted recognition or wanted to be heard on the bill.

It was unfortunate that just at the end, before the vote, the distinguished Senator from Wyoming was not in a position to properly present his amendment.

I think it is very important that we maintain the rights that the Senators have in that regard.

Although the Senator from Arizona was on the losing side, we express appreciation to those involved in this legislation.

It is important now that we try to do in conference, perhaps, what we were not able to do on the floor of the Senate, and that is to have a proper bill we can send to the President with the feeling that it will be beneficial to this Nation of ours and that it will not be subject to a veto.

Mr. President, I pledge myself, of course, in the conference to try to obtain that type legislation.

Mr. President, I pay tribute to the distinguished Senator from Montana, Senator METCALF, the floor manager of the bill for his patience, cooperation, expertise, and most of all his fairness in all dealings on this bill. Senator METCALF always protected the rights of the minority and insisted and demanded fairness to the differences which the President voiced about this bill. It cannot be said that the administration's views were disregarded or ignored by the Senator from Montana. Though I totally disagree with the committee's actions on many parts of this bill, we at least had the full opportunity to make our arguments in favor of change. No man could have been more fair or more accommodating than Senator METCALF.

I also want to thank our Republican Minority Members particularly Senators HANSEN, MCCLURE, and BARTLETT for their contributions. They spent many hours mastering this complicated technical subject matter and made significant amendments to better this measure.

Finally, Mr. President, I want to thank the staff for the hours, weeks, and months of hard work which they put into this bill. Mike Harvey, deputy chief counsel and Fred Craft, deputy minority counsel and professional staff member Lucille Langlois provided, as always, competent professional assistance their bipartisan and impartial advice has been invaluable.

Mr. JACKSON. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Arizona.

I commend the minority for their cooperation and for the expeditious way in which the legislation was moved.

I must say to the manager of the bill and the individual who chaired the hearings, the distinguished junior Senator from Montana, they provided the kind of leadership that made it possible for us to move, I think, far faster than we had expected to be able to move in the beginning of the session.

The Senator from Montana (Mr. METCALF) has been most considerate of all points of view as expressed in the committee hearings, committee deliberations, and on the floor of this body, and I commend him for his skill, his professionalism and his fairness in the handling of the pending measure which passed by such an overwhelming majority.

I hope and trust, Mr. President, and I think this is the main point, that the President of the United States will sign this bill because clearly the vote is a signal to the White House that he should sign it.

I say that because I think if we are going to get on with the business of the Congress, in these situations where it is so clear that the will of the Congress is so overwhelming, we can save a lot of time and effort in avoiding confrontations which do not help anyone.

So I hope and trust that the President of the United States will approve this bill, and I am confident it will pass the House by a similar overwhelming margin.

Mr. President, I yield to the distinguished Senator from Montana.

Mr. METCALF. I thank the chairman of the committee for yielding to me. I am grateful to him, Senator FANNIN and Senator HANSEN, especially for their cooperation.

I emphasize that in this legislation the committee carefully considered the message President Ford sent to us and carefully considered the various propositions in which he disagreed with the legislation.

We adopted some of them, we modified some of them, and we rejected some of them. We are back here with a piece of legislation, and I join with the chairman of my committee, the distinguished Senator from Washington, in urging the President to sign this bill.

Mr. President, this bill is the culmination of many years efforts to enact legislation regulating surface mining of coal. The principal author of the bill, Senator JACKSON, has consistently exercised his leadership in giving high priority to this legislation. Without his support, this bill would not have reached the floor at this early date.

I also want to express my appreciation to the minority members of the Interior Committee for the wonderful cooperation they have given me throughout the consideration of S. 7 in committee and during the last 3 days. I am particularly grateful to the ranking minority member (Mr. FANNIN) and my good friend from Wyoming, Senator HANSEN.

The new members of the Senate Interior Committee, Senators BUMPERS, STONE, and GLENN did not have the benefit of previous hearings and consideration of this egislation, yet they did their homework and contributed to the final legislation.

The committee's staff deserves the highest commendation, on the majority side, Mike Harvey and his assistants Lucille Langlois and Mary Flanagan were indefatigable in their efforts.

I also want to express my appreciation for the assistance of the minority staff: Fred Craft, Sonny Nixon, and Mary Adele Shute.

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to express my appreciation to the floor manager of the bill for his fairness ,the numberless hours of time that he has spent in chairing committee sessions, and the respect and fairplay he has accorded everyone who has had anything to say, either pro or con, on this bill. He has been particularly helpful to me, and I am truly grateful for it.

I believe because of his leadership and because of his understanding of the problems we are in a better position than we would otherwise be.

I voted for the bill, as I did a year ago. I feel it accomplishes some goals that all of us recognize as important.

I have said from the beginning, and I have repeated time after time after time that, in my mind, there were three very important goals that deserved our serious consideration and attention:

No. 1, the country, the people of the United States, all of us, who have seen those areas where mining has occurred want to take steps that will insure no further repetition of some of the destruction and desolation which has occurred. I am sure we can all applaud the bill for having required, as it does, the demonstration of the ability to reclaim land before land can be mined.

When we talk about strip mining of coal, as this bill addresses the issue, we must recognize that we are talking rather precisely and almost specifically, insofar as the solution of our energy crisis is concerned, to those lands in the West where there is a divided estate, where the surface of the land is owned oftentimes by individual homesteaders and their successors, and the ownership of the coal has been retained by the Federal Government.

I believe there are other adequate remedies for the rights of the one as contrasted with the other where the title has been vested at one time in our history in one individual or one entity. But

in this instance in the West we have a separation of those rights. Because of that, the problem of trying to make good use of the Nation's energy supplies and to treat fairly the surface owner poses some very real problems.

There is no question but what most of the owners of only the surface estates in the West would want to have the right to grant or to withhold permission to those who would surface mine the coal. Unfortunately, we did not address that problem very well, I do not think, as we considered this bill today.

I regretted that I did not have time in the few minutes remaining before 3 o'clock to explain some of the reasons that seemed to me to be important to the Senate, and I think may in later days prove to be important to the country.

We have given the surface owner the right to give permission or to withhold permission to a surface mining operation. I repeat again I voted for the bill because, on balance, it contains more worthwhile objectives and more laudable goals than I find can be criticized in the bill. The bill as written provides that while the surface owner may grant or withhold permission to a surface mining operator, what he may be paid, what he may receive, in consideration for his giving permission to surface mine is, I believe, going to be quite inadequate.

I predict as a consequence we will be returning in a year or two to reexamine this bill and to see what needs to be changed in order to better and more convincingly persuade the typical rancher and farmer in the West, who owns only the surface over Federal coal, to give his consent to mine the coal on his surface land.

I say that because when we limit, as this bill does, the rancher's or farmer's compensation or consideration to only the appraised value of the surface, the appraised value of improvements, to the consideration or compensation that he may be permitted for relocating, for moving from where he now lives and operates to another place, and to the loss of income brought about as a direct consequence of the incidence of mining interrupting his ongoing agricultural livestock operations, we restrict him too closely.

In addition to those points I have mentioned, he can be paid if, in the judgment of the Secretary of the Interior more is equitable in view of the farmer's or rancher's tenancy on his land, up to $100 per acre as an additional payment. That amount, however, may not exceed the total of these other measures that I have enumerated, including loss of income.

So, in effect, what this amounts to is that for the typical surface owner in the West, whether he is a rancher or a farmer, or whoever he may be, I think formula compensation in the bill is insufficient to induce many ranchers and farmers to give their consent.

If they could receive a greater share, or at least some little share, of the value of the coal that is to be removed from the earth under the surface which they own, I think it would make that necessary difference and we would find surface owner consent being granted. That is not in the bill, and I think it is a very serious shortcoming. I feel it is the kind of shortcoming that I suspect not many Senators appreciate.

I know there was a great interest in making certain that no one was unjustifiably enriched. We have done a good job in this bill today of ensuring that no one is going to be unjustifiably enriched. My prediction is that we have done such a good job that no one or very few, indeed, will give permission to a surface mining operation.

That brings up the third point that I have in mind, which I believe is important. That is in ensuring that the Government of the United States, and the people that Government tries to serve, shall have access to the coal that is owned by all of the people. Because we failed to give adequate compensation by restricting so narrowly as this bill does what a farmer or rancher, or any surface owner may receive, we failed in two of the three important objectives that I feel some of us have had in mind.

We do ensure, we do guarantee, that adequate reclamation will take place. We failed to recognize the kind of judgment, the kind of balancing of factors, and the kind of determination that I think will satisfy most ranchers and farmers in the West.

By failing to give that type of individual what I believe must be given him in order to secure his written permission, we will fail in our third objective, which means that the Government of the United States probably will not be able to persuade many more people whose consent has not already been obtained to give their consent when they will be paid as little as this bill allows.

So it was with mixed feelings that I voted for the bill. I voted for it because there is no doubt that the term "surface owner consent" has become a major objective insofar as most ranchers and farmers and, I think it fair to say, all the environmentalists in the West are concerned. They all want it, and I, too, want it.

I tried to perfect section 716 so that we could give a little more consideration to what we are doing. We have given the surface owner the right to say whether or not mining will take place; but by denying him what he can receive, to the extent and degree that we have, I think we have almost insured that most surface owners will not give their consent.

The bill does contain a number of provisions that are helpful and good. For one thing, by applying general standards nationally and uniformly, we have gone a long way in insuring that one area of the country shall not be placed in an unfair competitive position against another section; and that, of course, is one of the main reasons for having a national bill passed.

When I was Governor of Wyoming, some of the bentonite operators said they had no objection to reasonable reclamation requirements being demanded of them, provided other bentonite producers in other States were treated the same way. This bill does that. It insures that every surface owner, every surface mining operator will have to meet the same Federal standards that every other surface miner has to meet.

The Metcalf-Hansen amendment, with which I was proud to associate myself with the distinguished floor manager of this bill, gives to the State the extra right to go beyond the Federal standards and to require whatever extra provisions may be indicated, in the discretion of the legislature. I support this. With that kind of provision in this bill, with the Hansen-Metcalf provision in the bill, which places State law in a sovereign position over Federal law, if it exceeds in its requirements or stipulations what is imposed by Federal law, I think the bill has been improved.

The unfortunate thing is that I believe some of the provisions we have in the bill fail to recognize that any State can exceed what is in the law. As a consequence, amendments were adopted and incorporated in the bill that I think might better have been left out.

Everyone is concerned with acid water. Most of the acid water that plagues America comes from underground mines.

It is also fair to point out that the rainfall in the Appalachian area of the United States exceeds by a very considerable amount that which falls upon most of the West. So here, again, it might better have been left to actions of State legislatures to determine the precise requirements in that respect.

In my State of Wyoming, I think of the Continental Divide Basin, an area of about 300 square miles, which has an average annual rainfall of 7 inches a year. The topography is such that there are no rivers draining that area. All the water that falls within this 300-square-mile section of southern Wyoming either evaporates or percolates into the ground. There is no acid water draining from any mining operation out there. That is not the situation we find in Appalachia; and it points up once again a good reason for giving the States the ability to write the specifics of this reclamation law or of the requirements that may be imposed.

I think that some of the other provisions, some of the reclamation requirements, some of the permit provisions are ill-advised in certain respects. I recall that section 510(B)(5), I think it is, requires that, with respect to alluvial valley floors, it must be determined that a mining operation will have little or no significant effect on the croplands or the hay lands in those areas.

If they are excluded by virtue of that particular provision of the bill, I can envisage a situation in which the land on either side of an area so designated could be mined, the surface of the mined area of the ground could be lowered. In effect, one could envisage the future of that area as being reflected by a stream that would be in an elevated position, with no ability of the area on either side, if it should happen to have been mined, to contribute the water that would fall by rain or melt from snow into that particular stream, because the stream would be left in an elevated position—almost in the position of a flue. That is one of the provisions that I think should have been stricken from the bill.

I tried to present the logic for exclud-

ing that particular section from the bill, feeling that the reclamation requirement sections remaining in the bill were such as to insure that whatever was done would meet the requirements of the country, would conform with our standards that have been spelled out clearly insofar as reclamation is concerned, and I think would have handled in a very adequate and satisfactory manner what we all sought to achieve.

The particular section to which I have referred seems to me to contain a type of land use decision rather than to ask the basic question upon which the bill was based: Can reclamation be effected in a manner that will conform with the ethic that is extant in the country today and one to which we all subscribe?

In closing, let me ay again that I am most appreciative of the role that Senator METCALF has played in forming this bill. I agree that the President of the United States should sign it. It seems futile to me, despite the faults I find with it, to think that he will have adequate grounds on which to veto it. I join Senator JACKSON in predicting that if he were to veto it, his veto would be overridden. I say that believing as I do, nevertheless, that we probably are going to have to find out the hard way that there are some unworkable provisions in this bill, and I fully anticipate that that will be our experience.

Despite the statistics indicating that there is a great deal of coal already under lease, by imposing the obligation as we do, we are going to find that a reclamation plan has to be submitted that is workable. We will find that one or two surface landowners who say, "No, you can't surface mine my land," will present very formidable obstructions to the presentation of an adequate reclamation program.

As a consequence, my feeling would be that it will be impossible to put together the blocks of coal mining operations that are necessary in order to meet the very demanding requirement of our Nation for substitutes for the increasing amounts of oil that we have to buy from insecure foreign sources.

I appreciate the work of all of the members of the Committee on Interior and Insular Affairs. They have been very kind and helpful to me, and I express my thanks to them.

I yield the floor.

Mr. JACKSON. Mr. President, before turning to the pending business, I wish to commend the Senator from Wyoming for his participation in connection with the legislation just adopted. I spoke earlier about the fine work of the distinguished ranking minority member (Mr. FANNIN) from Arizona. Both Senators put a lot of time and effort into the pending legislation.

I must say, the Senator from Wyoming, as always, has spoken with great candor. I do not think there is any question that we will have some problems with the strip mining bill. It cannot be determined, really, until it has been tested. I think in summary, however, that we have made a good beginning. We will be monitoring and policing and following the implementation of strip mining legislation very closely as part of our oversight responsibility in the Committee on Interior and Insular Affairs.

I especially commend the Senator from Wyoming for the vigorous way in which he presented his amendments and his points of view. It comes from the heart of the problem, and no one knows it better than someone who lives with this situation in his own constituency. I therefore wish to thank, commend, and compliment the Senator from Wyoming for the fair way in which he participated in the floor debate, despite inclusion in the bill of provisions with which he did not always agree; I commend him heartily.

Defeated by voice vote, March 12, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. HANSEN to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz: ~~On page ——, line ——, insert the following:~~ On page 163, line 4, strike all through page 169, line 16, and insert the following:

SEC. 716. (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.

(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. 201(a)), 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 issue a mining permit for any lease of such coal deposits until the lessee has the written consent of the surface owner to enter and commence surface mining operations or a document which demonstrates the acquiescence of the owner of the surface rights to the extraction of coal within the boundaries of his property by surface mining methods.

(e) In the event the lessee does not secure consent from the surface owner as prescribed in subsection (d), the lessee may rescind the lease whereupon the Secretary shall reimburse him for the value paid for the lease.

(f) 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; and

(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 mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations.

(g) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other landowner, nor increasing or diminishing any rights or privileges acquired in accordance with the provisions of section 201(b) of title 30, United States Code.

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

Withdrawn by Hansen on March 11, 1975, in favor of modified Metcalf Amendment No. 79.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. HANSEN to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

Delete section 510 (b) (5).

Amdt. No. 75

Withdrawn by Hansen on March 11, 1975, in favor of modified Metcalf Amendment No. 79.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. HANSEN to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

Delete section 510 (b) (5).

Amdt. No. 75

Agreed to by unanimous consent, March 12, 1975.

Calendar No. 28

91TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. FORD to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 14, line 5, beginning with the word "other" strike out through the word "research" in line 7 and insert in lieu thereof "other agencies".

Amdt. No. 77

Adopted by voice vote March 11, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. HUDDLESTON to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 12, beginning with line 4, strike out all through line 16 and insert in lieu thereof the following: "ducting a program of, or a curriculum which provides for, substantial instructions and research in mining or minerals extraction or which establishes such a school of mines, division, department, or curriculum subsequent to the enactment of this title and which school of mines, division, department, or curriculum shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources

Amdt. No. 78

Research as created by this title shall determine a college or university to have an eligible school of mines, division, department, or curriculum providing a program of substantial instruction and research in mining or minerals extraction wherein or pursuant to which education and research in the minerals engineering fields are being carried out and which qualifies students participating therein for careers in mining education, mining research, mining industry, or other related fields:".

On page 13, strike out line 4 and insert in lieu thereof the following: "or department or curriculum conducting or providing for a program of substantial in-".

On page 13, line 9, immediately after "department" insert a comma and the following: "or curriculum".

Adopted, as modified, by voice vote on March 11, 1975, as substitute for Hansen Amendment No. 75.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. METCALF to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 70, strike lines 1 through 4, and insert the following: "croplands, haylands, ~~or pastures~~ overlying alluvial valley floors where such croplands, haylands, ~~or pastures~~ are significant to the practice ~~maintenance~~ of farming or ranching operations".

Amdt. No. 79

Defeated by record vote of 56-39 on March 11, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. MANSFIELD to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 169, beginning with line 17, strike out all through line 12 on page 170 and insert the following:

"SURFACE OWNER PROTECTION

"SEC. 717. All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine. Provisions of this subsection shall apply only to coal deposits leased after January 1, 1975.".

Amdt. No. 80

Defeated by record vote of 68-27, March 11, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. MCCLURE to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 124, line 20, after the semicolon add the following: "*Provided*, 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 applicable to other Federal lands as contained in section 523;".

Amdt. No. 82

Defeated, as modified, by record vote of 78-18, March 12, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 11, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TOWER (for himself and Mr. BARTLETT) to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz: On page 48, between lines 7 and 8, insert the following:

(e) the provisions of this title shall be of no force or effect ~~effort~~ within the boundaries of any State in which there shall be enacted a bill or resolution which provides that—

(1) it is the will of the people of such State that the provisions of this title shall be of no force or effect ~~effort~~ within the boundaries of such State; and

(2) that it is the intention of the legislature of such State that the provisions of this title shall be of no force or effect ~~effort~~ within the boundaries of such State.

Amdt. No. 88

Adopted, as modified, by voice vote, March 12, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 11, 1975
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BELLMON to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz: On page 147, line 4, insert the following new section and renumber the other sections accordingly:

INTERSTATE MINING COMPACT

SEC. 703. (a) In the approval of "State programs," in allotments to "institutes," and in grants to States, the Secretary shall recognize the efforts of the Interstate Mining Compact in gathering and disseminating information and statistics and in coordinating efforts to obtain the most efficient methods of reclamation; ~~and~~.

Amdt. No. 89

~~(b) The Secretary is authorized and encouraged to make~~ contracts and grants to and through ~~the~~ compact and in order to strengthen ~~it~~ as an approach to the solution of ~~mining needs and problems.~~

Amdt. No. 89 Calendar No. 28

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1ST SESSION

S. 7

AMENDMENT

Intended to be proposed by Mr. BELLMON to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

MARCH 11, 1975

Ordered to lie on the table and to be printed

Adopted by voice vote, March 12, 1975.

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94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 11, 1975
Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BELLMON to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

(1) On page 24, line 12, strike out the word, "COAL" in the heading of title IV.

(2) On page 38, line 11, add the word, "any" after the word, "from" and before the word, "mining" and add the word, "operation" after the word, "mining" and before the word, "constitute,".

(3) On page 141, line 10, add the clause, "*Provided, however*, That reclamation operations may, as agreed be-

Amdt. No. 90

tween the Secretary and the Governor of any State pursuant to a 'State program', be applied to voids and open and abandoned tunnels, shafts, and entryways caused by underground mining for other types of minerals than coal.".

Amdt. No. 90 Calendar No. 28

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1ST SESSION

S. 7

AMENDMENTS

Intended to be proposed by Mr. BELLMON to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

MARCH 11, 1975

Ordered to lie on the table and to be printed

Defeated by record vote of 64-28, March 12, 1975.

Calendar No. 28

94TH CONGRESS
1ST SESSION

S. 7

IN THE SENATE OF THE UNITED STATES

MARCH 11, 1975
Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. MATHIAS (for himself, Mr. BEALL, Mr. BROOKE, and Mr. WEICKER) to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, viz:

On page 41, lines 7 and 8, 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.".

On page 69, after line 7, insert a new paragraph

Amdt. No. 91

(4) as follows and renumber subsequent paragraphs accordingly:

"(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;".

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S. 7

AMENDMENTS

Intended to be proposed by Mr. MATHIAS (for himself, Mr. BEALL, Mr. BROOKE, and Mr. WEICKER) to S. 7, a bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

MARCH 11, 1975

Ordered to lie on the table and to be printed