

CONGRESSIONAL RECORD APRIL 28, 1977

Legislative History

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123 CONG.REC.H37262

April 28, 1977

} Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

H3726 The Clerk read the resolution, as follows:

H3726 H.RES. 523

H3726 Resolved, That upon the adoption of this resolution it shall be in order to move, clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment, and said amendment shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto without intervening motion except one motion to recommit with or without instructions.

H3726 The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Washington (Mr. MEEEDS) is recognized for 1 hour.

H3726 Mr. MEEEDS. Mr. Speaker. I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such as as I may consume.

H3726 (Mr. MEEEDS asked and was given permission to revise and extend his remarks.)

H3726 Mr. MEEEDS. Mr. Speaker, House Resolution 523 provides for an open rule with 1 hour of debate on H.R. 2, the Surface Mining Control and Reclamation Act of 1977. This rule provides that the committee substitute shall be considered as an original bill for the purpose of amendment. The rule further provides for the reading of the measure by titles instead of by sections. The rule also waives points of order against the consideration of the bill for failure to comply with clause 7 of rule XIII. This waiver is necessary because the committee report failed to contain a statement of the committee's cost estimate.

H3726 The Surface Mining Control and Reclamation Act of 1977 would enact a set of national environmental performance standards to be applied to all coal mining operations. These standards would be enforced by the States with backup authority given the Department of the Interior.

H3726 The bill essentially would require strip miners of coal to restore the land to its original condition. Under the terms of the bill States would develop their own regulatory programs that met certain criteria established under the bill.

H3726 Additionally, H.R. 2 provides for a reclamation program to be funded by fees leveled, on the industry. The bill also contains provisions for funding mining schools in our State institutions of higher learning to encourage the development of mineral and mining technique research.

H3726 As my colleagues know, this body has considered and passed similar legislation over the last few years. Each time the Committee on the Interior has modified and improved the bill. H.R. 2 is the product of a great deal of work and forethought and I believe it is an essential prerequisite to this Nation having a rationale and viable energy policy. I, therefore, encourage my colleagues to adopt House Resolution 523 so that we might debate and vote on H.R. 2.

{H3727} Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

H3727 (Mr. DEL CLAWSON asked and was given permission to revise and extend his remarks.)

H3727 Mr. DEL CLAWSON. Mr. Speaker, House Resolution 523 provides an open rule with 1 hour of general debate for the consideration of H.R. 2, the Surface Mining and Reclamation Act of 1977. This rule allows the committee amendment to be in order as an original bill for the purpose of amendment, and provides that the substitute be read for amendment by titles rather than by sections. In addition, the rule contains one waiver of points of order against the consideration of the bill for failure to comply with clause 7 of rule XIII since the committee report failed to include a committee cost estimate. The Congressional Budget Office cost estimate is included in the bill, but the Committee on Interior and Insular Affairs offered no estimate of their own.

H3727 Mr. Speaker, it should be brought to the attention of the House that the waiver which was granted by the Rules Committee was not the waiver which the chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, had originally requested. Within the letter addressed to the Rules Committee on April 20, Mr. UDALL asked that the rule contain a waiver of points of order against the bill based on procedures adopted by his committee during its deliberations.

H3727 It is my understanding that the problem arose when Chairman UDALL asked unanimous consent that the bill be considered as read and open for amendment at any point. Mr. EDWARDS of Oklahoma and Mr. BAUMAN of Maryland objected, but after a short interlude, the bill was considered as read and open to amendment, in spite of the objections.

H3727 Mr. Speaker, the chairman of this committee apparently ruled in this instance in violation of the House rules. There is relevant precedent on page 412 of the CONGRESSIONAL RECORD of the 80th Congress. Mr. Rankin stated, and I quote:

H3727 Mr. Chairman, I make the point of order that it is not in order to move to dispense with the reading of the bill. If it cannot be done by unanimous consent, it cannot be done at all. It is not in order to dispense with the reading of the bill.

H3727 Since the point of order was sustained in the precedent, Mr. UDALL was out of order by

permitting this bill to be considered as read without unanimous consent. It is imperative, Mr. Speaker, that committee chairmen realize that they are not so powerful that they can act in violation of the rules that govern us all equally in this body.

H3727 Mr. Speaker, the signers of the minority views suggest that H.R. 2 would superimpose Federal standards and eventually could even preempt the statutes of the 38 States already in place for strip mining operation, force small coal producers out of business, invite endless litigation, increase bureaucracy, increase consumer costs - and reduce our annual output of coal. According to some views, H.R. 2 could cause the removal from mining of up to 8 billion tons of known coal reserves. It could reduce coal production by up to 200 million tons by 1985. Mr. WAMPLER of Virginia has testified that the enactment of this bill would virtually put to an end the surface mining industry in southwestern Virginia.

H3727 This piece of legislation is inconsistent with the national energy proposals which the President recommended last week. In his address to Congress he called for an increase in the production of coal from the current level of 650 million tons a year to 1 billion tons a year, a two-thirds increase by 1985. Mr. Speaker, there is no guarantee that H.R. 2 will produce 1 extra ton of coal. Its passage may only force us to become more dependent on other countries in order to meet our energy needs.

H3727 My concern is leveled at the current and future energy problems facing our country. For this reason, I recommend the referral of H.R. 2 to the recently established ad hoc Energy Committee. Strip mining legislation should be woven into the fabric of a national energy policy. This is the only way to assure the American public that we intend to formulate a realistic, workable energy program.

H3727 Mr. Speaker, I am opposed to the consideration of this legislation at this time and urge my colleagues to postpone any further deliberation by voting against the rule.

H3727 Mr. Speaker, I yield such time as he may consumer to the gentleman from Tennessee (Mr. QUILLEN).

H3727 (Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

H3727 Mr. QUILLEN. Mr. Speaker, I think it is time that we as Members of this Congress

should look at the forest rather than the trees. It is time that the Nation put things in perspective energywise. It is time that we produce more coal. It is time that we produce more nuclear energy. It is time that we make use of more solar energy. It is time that we produce more energy, more oil, more everything energywise for the benefit of all of the American people.

H3727 Today, as has happened over the past 4 years, we have the same bad bill before us, trying to hamstring strip mining in the Appalachian area, trying to bring it to a dead halt, trying to stop the production of coal, when we need more energy. And it is time that we look at the forest, the whole forest, rather than just a tree.

H3727 In the Committee on Rules I tried to get this measure postponed until June 1. I think the ad hoc Energy Committee ought to take a look at it, to see if it is in line with the President's proposals. But more than that, it is time that we stood up and faced the facts, to say that we are going to provide all of the energy necessary to bring down high electric rates and to bring down the price of gasoline and the price of heating fuel. We can do it. Certainly, if we can go to the Moon, we can accomplish this.

H3727 So I urge my colleagues in the House to vote against the rule, to postpone action until we can in fact look at the whole forest instead of a single tree.

H3727 Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

H3727 (Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

H3727 Mr. RONCALIO. Mr. Speaker and my colleagues, this is the sixth year that I find my efforts largely devoted to enactment of this eminently necessary and important and altogether wholesome and beneficial legislation that will increase the production of coal, that will have some regard for the reclamation of the land being mined, that would stimulate coal production by resuming the leasing of tens of thousands of acres of rich coal fields in the public domain in the 11 Rocky Mountain States, and particularly in Wyoming, where most of it is located, frankly.

H3727 Mr. Speaker, I would recommend that the Members go over the report filed with H.R. 2. It is one of the best reports filed in recent years. It is well prepared, and this includes the separate

minority views. Staffers are to be commended of the Committee on Interior and Insular Affairs, and I hope the Members read all the 199 pages of the report accompanying this bill. It is a textbook, a treatise, on this work of law. It is yours for the reading. I think it is unfortunate that some of us do not have the time to digest all of this report. If we could read it all, I am sure we would find it would warrant our support of this bill.

H3727 At lunch today I was disturbed to find there were members of the minority with whom I was eating who stated that they would probably vote for the legislation, recognizing that it is inevitable and a necessity, but that they are determined to vote again the rule. I find no real basis for such a position.

H3727 I appreciate consistency, and we should have reasons for our vote. If there is a principle to be upheld, a Member can vote against this bill and I can appreciate some Member who has a difference of opinion from mine - and then that vote against the bill may well eliminate the danger of enactment in his opinion. However, I suggest that our votes on the rule should be aye votes, and then we can proceed to a consideration of the legislation.

H3727 If any member of the minority believes that this is not good law, we have the amendment process. Amendments will be offered, including some from the administration, to which I take exception. Then let us put on the statute books once and for all a strip mine bill, but let use not vote against the rule.

H3727 To refer this legislation to a new ad hoc energy committee would be an absurdity. Let me remind my colleagues that all 47 members of the Committee on Interior and Insular Affairs have devoted countless hours to this bill. We have developed legislation during the past 2 years and, for the elders, for 7 years. We have gone down the road to see the passage of 3 bills; we have gone down the road to two vetoes.

{H3728} Mr. Speaker, we ought not to take too much time on the debate. I hope Members will vote aye on the rule.

H3728 Mr. DEL CLAWSON. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. WAMPLER).

H3728 (Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

H3728 Mr. WAMPLER. Mr. Speaker, I thank my distinguished colleague, the gentleman from California, for yielding to me.

H3728 Mr. Speaker, someone has aptly described this bill before us as the "some old coon but with a different ring around its tail."

H3728 I think it is basically the same bill that we have considered before. I believe this is perhaps the fifth time we have considered it.

H3728 Speaking for myself, I find it as objectionable today as I have on previous occasions.

H3728 I assume that every Member of the House has received, as I did, a telegram from two individuals who, I believe, are perhaps as knowledgeable about the production of coal as anyone in this country. I refer to Mr. J. Allen Overton, Jr., president of the American Mining Congress, and Mr. Carl E. Bagge, president of the National Coal Association. In these telegrams they set forth in some detail their specific objections to the bill that is before us, and they are asking the Members of the House to support substantial amendments to change these objectionable provisions in the bill, or, failing that, to vote against the enactment of H.R. 2.

H3728 Mr. Speaker, I think it is significant to note that despite the fact that the chairman of the Committee on Interior and Insular Affairs and other members of the same committee, if not directly, at least by implication in testimony before the Committee on Rules, indicated that most of the objections to this bill had been removed, there is still considerable opposition to this bill. I would cite the fact that the United Mine Workers of America, the international union that represents organized coal miners, both underground and surface miners, sent a resolution to the Committee on Interior and Insular Affairs, from their International Executive Board objecting to the enactment of this legislation.

H3728 The Governor of Virginia, sent testimony to the Committee on Interior and Insular Affairs objecting to this bill. The Commissioner of Taxation and the Commissioner of Employment of my State, as well as the Attorney General of Virginia, have all objected to this bill on sound grounds.

H3728 I believe it is rather ironic that we are considering this bill just 1 week after the President of the United States in addressing a joint session of the Congress in this very Chamber - for which he

is to be commended - pointed out the seriousness of the energy crisis in this country. As I understand it, the keystone of his energy proposal is to increase the production of coal by at least two-thirds by the year 1985. It is ironic that the first major piece of legislation that this House is considering since that message is H.R. 2, a bill that by the most conservative estimates would dramatically reduce the production of coal in areas that I represent and in other areas where steep-slope surface mining is carried on in Appalachia. This bill for all practical purposes would eliminate steep-slope surface mining, with all the unnecessary environmental requirements.

H3728 Mr. Speaker, it would hamper surface coal production in all States. I am told that at least 38 States of the Union have surface coal mining to some degree or another; and those 38 States, through their elected representatives in their State legislatures, have passed legislation regulating coal surface mining, and reclamation.

H3728 Perhaps 20 years ago, 10 years ago, or even 5 years ago a case could have been made for Federal legislation to regulate surface mining; but I would say the one objection I hear from every segment of my constituency is, "Why does the Federal Government constantly have to involve itself needlessly in areas that more properly should be left to the several States?"

H3728 Mr. Speaker, in my State of Virginia, most of the surface mine operators are small operators. With the exception of three, they mine less than 250,000 tons of coal a year.

H3728 In talking with them, with their representatives, with their reclamation association, and with officials of the State government of Virginia, there is no way in which they can comply with the many objectionable features of this bill.

H3728 Therefore, I would say, Mr. Speaker, how is this House going to address the problem of the shortage of energy in this country? Is it going to be with realism or with idealism?

H3728 I suggest that coal is the one fossil fuel whose production we should do everything reasonable to expand.

H3728 Mr. Speaker, we passed a bill in 1969; and I voted for it, the Federal Coal Mine Health and Safety Act; and under the provisions of that bill many of the small underground coal operators were unable or unwilling to comply. They are no longer in business.

H3728 Mr. Speaker, to the extent that we have competition in the coal industry today, it is afforded to a great extent in my district, at least, and in my State by the small surface coal mine operators.

H3728 I would say, Mr. Speaker, that the enactment of legislation like H.R. 2 can only have one inevitable result, and that is to reduce production and to drive up the cost of coal and thereby drive up the cost of energy and related products that are derived from coal.

H3728 Mr. Speaker, I have printed in the RECORD a number of amendments which I intend to offer at the appropriate time. I have others that I hope to offer, if recognized for that purpose.

H3728 It just seems to me that the legislation before us, H.R. 2, is overregulation; it is overreaction; it is needless legislation; and if this House is really serious about its desire to achieve self-sufficiency in energy, I suggest that one way to start is to reject this rule and to send this bill to the Ad Hoc Committee on Energy to get a meaningful readout on what the cost of the bill is and what it will do to the production of coal in this country, so that we can act then, hopefully, in an intelligent way.

H3728 Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SYMMS).

H3728 (Mr. SYMMS asked and was given permission to revise and extend his remarks.)

H3728 Mr. SYMMS. Mr. Speaker, I would like to compliment the gentleman from Virginia (Mr. WAMPLER) for what I consider to be a very excellent statement filled with commonsense. I only hope that the House will take the advice of the gentleman from Virginia and defeat this rule here today and not waste our time further on this legislation, which is going to lower the standard of living of millions and millions of Americans in years to come.

H3728 Mr. Speaker, I think the OPEC cartel people must be delighted with what has been going on here in Washington, prohibiting the development of hydroelectric energy, prohibiting the development of nuclear energy, regulating the price of natural gas at the wellhead and of domestic oil to implement a disincentive program so that people will not want to produce petroleum products, and now interfering with coal mining.

H3728 Mr. Speaker, I have before me here Joint Resolution No. 1 from the Senate of the 44th Legislature of the State of Wyoming, 1977 session, dated March 4, 1977.

H3728 Mr. Speaker, it is a resolution providing for the recognition of the fact that it is in the best interests of the State of Wyoming to have authority over all surface mining of coal. I will not belabor the House with all of the resolution. I will just read the last paragraph, which is as follows:

H3728 Now, therefore, be it resolved by the Legislature of the State of Wyoming, That the Congress of the United States resist impositions of Federal legislation or regulations which purport to grant the state enforcement authority but in effect mandate federal control of the mining of coal within the berders of the State of Wyoming.

H3728 I think, Mr. Speaker, this speaks very well not only of the people in the West who are trying to produce coal, but of the people in the East, as has been pointed out.

H3728 This legislation will do nothing to help solve the energy crisis. It will do nothing to protect the environment of the Nation, which is already adequately protected by Federal and State regulations.

H3728 Mr. Speaker, I urge defeat of the rule.

H3728 Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TSONGAS).

H3728 (Mr. TSONGAS asked and was given permission to revise and extend his remarks.)

H3728 Mr. TSONGAS. Mr. Speaker, it is interesting that this Congress, in comparison to the past one, is spending a great deal of its time in trying to come to grips with the fact that man is not really understanding the finality of our natural resources. And this, of course, as time goes on, means that more and more time and deliberations are going to be spent in trying to understand just exactly what that all means.

{H3729} We now have a new energy committee Last Wednesday we were here when the President spoke to a joint session of the Congress on the subject of our energy crisis.

H3729 I testified this morning before the gentleman's committee on the long-term impact of water shortages and the increasing problems we will have in that regard.

H3729 One of the little known side effects of the strip mining problem is that it takes increasing amounts of agricultural land, yet one of the elements of our natural resources that we will have to deal with in the future is that of food and fiber.

H3729 One of the conditions expressed in H.R. 2 is that we should not go on to prime agricultural land unless absolutely necessary or unless we can restore that prime agricultural land back to its original productivity.

H3729 One of the problems with society and with Congress, really is that we suffer from tunnel vision. We look at things from a very narrow perspective, only worrying about tomorrow and the day after that. I believe we have the responsibility to consider these issues in terms of future generations, that we must have a much longer perspective. H.R. 2 not only protects land but it especially protects prime agricultural land from strip mining.

H3729 Mr. DEL CLAWSON. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

H3729 (Mr. EDWARDS of Oklahoma asked and was given permission to revise and extend his remarks.)

H3729 [Mr. EDWARDS of Oklahoma addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3729 Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KETCHUM).

H3729 (Mr. KETCHUM asked and was given permission to revise and extend his remarks.)

H3729 [Mr. KETCHUM addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3729 Mr. DEL CLAWSON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. RUPPE).

H3729 Mr. RUPPE. Mr. Chairman, I appreciate the distinguished gentleman from California yielding.

H3729 Let me say I rise in support of this rule. I think that the bill is a very wise and a very

balanced piece of legislation. I believe those of us who worked on the bill - and I believe all of the members of the committee worked on it long and diligently - have developed a piece of legislation that in large measure meets the requirements of the President's energy program in that we have made a number of changes that will make it easier to mine coal. We have eased up on many procedures and techniques in this legislation and I believe we can meet the President's goal under this legislation.

H3729 At the same time I believe it is fair to say that members of the committee resisted a number of efforts offered by the administration and others that in my opinion would have significantly reduced the amount of coal that could be mined under this legislation.

H3729 So basically we do have balance. We have recognized the energy needs of this Nation and we have materially changed the bill so coal can be mined more easily and readily than was the case in legislation of prior years and have as a committee resisted a number of amendments that would certainly have made it more difficult to mine coal in this country.

H3729 I am pleased to urge the passage of the rule.

H3729 The committee has worked long and hard. I do not believe it would be wise to refer this bill to the Energy Committee. I cannot believe that august group with all the responsibilities and challenges they will have before them will have the opportunity to put the same type and kind of care into this bill as this committee.

H3729 Mr. MEEDES. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CARR).

H3729 Mr. CARR. Mr. Speaker, I thank the gentleman from Washington for yielding.

H3729 I rise merely to make one correction for the House. The gentleman from California I believe stated that this year the committee had not taken additional hearings or additional investigative field trips in the matter of strip mining. I want to make sure everybody understands we did have 7 more days of hearings and that we did have additional field investigations, particularly for the new members of the committee and for some of us who have been in this committee for 2 years but have not had a previous opportunity. One of the field investigations was to the district of

the gentleman from Virginia (Mr. WAMPLER) and we learned about mining there, and also we visited the district represented by the gentleman from West Virginia (Mr. RAHALL), and there was a visit to strip mines in Pennsylvania. There was an additional field investigation that I was unable to make to the west. We want you to know that the committee went into this very carefully.

H3729 Mr. DEL CLAWSON. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

H3729 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3729 Mr. BAUMAN. Mr. Speaker, it was just 8 days ago that this House heard an eloquent appeal by the President of the United States describing the energy problem which has been with us now for 3 or 4 years as so serious that we must act in the same way as we would react to a declaration of war by a foreign power. That I believe was his comparison to the seriousness of the challenge facing us. President Carter is indeed right about the seriousness of this situation.

H3729 He very correctly referred in his address to the fact that our most abundant national energy resource, coal, will have to be looked to in the future as one of our major sources for producing energy in this country.

H3729 It therefore seems a contradiction in terms, indeed ironic, that we should be gathered here today discussing legislation which, by the estimate of all neutral observers, will significantly cut back on coal production in the short term, and in both the long and short term will significantly increase the costs of coal to consumers as well as the cost of all energy produced from coal including electric power.

H3729 It should be very difficult for us to go back home if we, indeed, pass this bill into law and explain to our constituents that the provisions of this legislation, for one example, could increase utility bills for an average family from \$34 to \$80 a year. That may seem like a small amount, but we have to consider that in the context of other laws we have enacted, this will place additional costs on energy production that consumers must pay.

H3729 I am certain a number of people will say that the gentleman from Maryland is known for his conservative views. I do oppose Government intrusion into any area, but do not take the word of

the gentleman from Maryland or, for that matter, the word of the distinguished and able chairman of the committee, the gentleman from Arizona (Mr. UDALL).

H3729 I would hope that all Members would take the time to read both the dissenting and the majority views and discover what the taxpayers of the United States learned when they paid \$200,000 for a massive study, a copy of which I have here two inches thick, commissioned by the Council on Environmental Quality and the Environmental Protection Agency. The study assesses the impact of legislation such as H.R. 2. In the pages of this report, which remains unrefuted, it is pointed out there will be, indeed, a loss of employment estimated to be at least 4,300 people. President Ford, when he vetoed the bill, predicted that 19,000 people would be put out of work. No one knows for sure.

H3729 The same report estimates that this type of strip mining legislation could permanently remove from coal production anywhere from 800 million tons to 8 1/2 billion tons of coal. Immediately the bill will result in the loss of 54 million tons of coal production in Appalachia alone out of a national annual output of 600 million.

H3729 I know that the terms of this debate have been described as the environment versus coal companies. The truth of the matter is that we have on the books the Federal Coal Leasing Act Amendments, the Clean Air Act, the National Environmental Policy Act, the Federal Water Quality Act, all of which bear on the strip mining and protect the environment.

H3729 In addition, 38 States have already enacted statutes, many comparable to and many stronger than this Federal law that is proposed today.

H3729 I can only suggest that if this bill is enacted, despite slight improvements in some areas over past legislation, it will reduce greatly coal production; it will tie up in litigation, perhaps for years, those that seek production of coal under the terms of this bill; it will greatly increase unnecessary control of an energy source that we badly need. It will, indeed, remove States' rights over an area which has traditionally been theirs, and likely will go a long way toward defeating the very objectives that President Carter says he wants; energy sufficiency and an ability for this country to move away from foreign imports of petroleum.

{3730} } Good men can differ, but I invite you to look at a new report issued by the General

Accounting Office only 2 weeks ago. It in large part confirms many of the estimates in the previous report I mentioned earlier. If you want a massive decrease of coal production; if you want to raise coal and electric prices for our constituents and add environmental restrictions that we do not need, then support this bill. But every once in awhile logic prevails in the deliberations of this body. Perhaps it will today. America's energy crisis could well be deepened by what we do here today.

3730 Mr. MEEEDS. Mr. Speaker, I yield myself 6 minutes.

3730 Mr. Speaker, it is not my intent to get into the merits of this bill, but I would like to address myself to two points that have been raised with regard to the rationale of why one should vote against the rule.

3730 First, it was suggested by the gentleman from California that there is some problem with this point of order that will lie against it. Let me assure my colleagues that when the chairman of the Committee on the Interior came before the Committee on Rules, the gentleman was suggesting a waiver of three points of order. We discussed very thoroughly the waiver of all those with the House Parliamentarian. With the exception of one which is granted in the bill, it was our feeling, and for that reason we gave no further points of order waivers, that points of order would not lie. If the gentleman wants to pursue that matter in the Committee of the Whole, the gentleman has every right to do so. Of course, any point may be made to the Speaker and the ruling on that will be determinative of that issue. So, I suggest that this is properly brought before the House and not at this time on the rule.

3730 Second, the argument about postponing and combining this with the overall comprehensive energy program which the President is sending up, at first blush seems like a very good reason. But, when one looks at it closely, one can see that there are various segments to the program which the President is suggesting. These segments are in various stages of the legislative process.

3730 Some of them have already been passed. The ERDA authorization which we passed last week or 10 days ago, was very much an integral part of the comprehensive energy program of the President. There are other parts of this program which are in transit now in the legislative process; in committees, receiving hearings, which are not a part of the so-called comprehensive package, but

which are very much a part of the overall energy package. They are in committees and receiving hearings and other things. They are like this bill, they are being brought on independently and they still are very much a part of that overall package.

3730 There are some which will be combined in the comprehensive package, and they will be heard all at once, or together, after they are reported out by the ad hoc Budget Committees and the ad hoc Committee on Energy. So, no one is suggesting, I think, that we go back and redo ERDA or slow down this bill so that we can make it a part of one bill. We have to take these in a logical fashion, and those that have started the legislative process should be heard in an orderly procedure, as we are suggesting we do with this bill.

3730 President Carter wants this bill passed now; the Speaker of the House wants this bill passed now; the Secretary of the Interior wants this bill passed now; the chairman of the committee wants this bill passed now; and all of us on the Interior Committee who have marched up and down the hill with this legislation for the past 7 years want this legislation passed now.

3730 I therefore suggest that the Members vote up this rule so that we can get on with the consideration of the bill and, hopefully, to its passage.

3730 Mr. Speaker, I move the previous question on the resolution.

3730 The previous question was ordered.

3730 The SPEAKER pro tempore. The question is on the resolution.

3730 The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

3730 Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

3730 The SPEAKER pro tempore. Evidently a quorum is not present.

3730 The Sergeant at Arms will notify absent Members.

3730 The vote was taken by electronic device, and there were - yeas 340, nays 58, answered "present" 1, not voting 34, as follows:

3730 [Roll No. 169]

3730 YEAS - 340

3730 Abdnor

3730 Addabbo
3730 Akaka
3730 Alexander
3730 Allen
3730 Ambro
3730 Ammerman
3730 Anderson, Calif.
3730 Anderson, Ill.
3730 Andrews, N.C.
3730 Andrews, N. Dak.
3730 Annunzio
3730 Applegate
3730 Armstrong
3730 Ashley
3730 Aspin
3730 AuCoin
3730 Badillo
3730 Baldus
3730 Barnard
3730 Baucus
3730 Beard, R.I.
3730 Beard, Tenn.
3730 Bedell
3730 Beilenson
3730 Benjamin
3730 Bennett
3730 Biaggi
3730 Bingham

3730 Blanchard
3730 Blouin
3730 Boland
3730 Bolling
3730 Bonior
3730 Bonker
3730 Bowen
3730 Brademas
3730 Breaux
3730 Breckinridge
3730 Brinkley
3730 Brodhead
3730 Brooks
3730 Broomfield
3730 Brown, Ohio
3730 Broyhill
3730 Buchanan
3730 Burgener
3730 Burke, Calif.
3730 Burke, Fla.
3730 Burke, Mass.
3730 Burlison, Tex.
3730 Burlison, Mo.
3730 Burton, John
3730 Burton, Phillip
3730 Byron
3730 Carney
3730 Carr
3730 Cederberg

3730 Chappell
3730 Chisholm
3730 Clausen, Don. H.
3730 Clay
3730 Cleveland
3730 Cochran
3730 Cohen
3730 Collins, Ill.
3730 Conable
3730 Conte
3730 Conyers
3730 Corcoran
3730 Corman
3730 Cornell
3730 Cornwell
3730 Cotter
3730 Coughlin
3730 D'Amours
3730 Daniel, Dan
3730 Danielson
3730 de la Garza
3730 Delaney
3730 Dellums
3730 Dent
3730 Devine
3730 Dickinson
3730 Dicks
3730 Diggs

3730 Dingell
3730 Dornan
3730 Downey
3730 Drinan
3730 Duncan, Oreg.
3730 Early
3730 Eckhardt
3730 Edgar
3730 Edwards, Ala.
3730 Edwards, Calif.
3730 Eilberg
3730 Emery
3730 Erlenborn
3730 Ertel
3730 Evans, Colo.
3730 Evans, Del.
3730 Evans, Ga.
3730 Evans, Ind.
3730 Fary
3730 Fascell
3730 Fenwick
3730 Findley
3730 Fisher
3730 Fithian
3730 Flippo
3730 Florio
3730 Flowers
3730 Flynt
3730 Foley

3730 Ford, Mich.
3730 Ford, Tenn.
3730 Fountain
3730 Fowler
3730 Frenzel
3730 Frey
3730 Fuqua
3730 Gaydos
3730 Gephardt
3730 Gibbons
3730 Gilman
3730 Ginn
3730 Glickman
3730 Goldwater
3730 Goodling
3730 Gore
3730 Grassley
3730 Gudger
3730 Guyer
3730 Hagedorn
3730 Hamilton
3730 Hanley
3730 Hannaford
3730 Harrington
3730 Harris
3730 Harsha
3730 Hawkins
3730 Heckler

3730 Hefner
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3730 Hillis
3730 Holland
3730 Holtzman
3730 Horton
3730 Hubbard
3730 Huckaby
3730 Hughes
3730 Hyde
3730 Ireland
3730 Jacobs
3730 Jeffords
3730 Jenkins
3730 Jenrette
3730 Johnson, Calif.
3730 Johnson, Colo.
3730 Jones, N.C.
3730 Jones, Tenn.
3730 Jordan
3730 Kasten
3730 Kastenmeier
3730 Kemp
3730 Keys
3730 Kildee
3730 Koch
3730 Kostmayer
3730 Krebs

3730 Krueger
3730 LaFalce
3730 Lagomarsino
3730 Leach
3730 Lederer
3730 Lehman
3730 Lent
3730 Levitas
3730 Lloyd, Calif.
3730 Lloyd, Tenn.
3730 Long, La.
3730 Long, Md.
3730 Luken
3730 Lundine
3730 McCloskey
3730 McCormack
3730 McDade
3730 McFall
3730 McHugh
3730 McKinney
3730 Madigan
3730 Maguire
3730 Mahon
3730 Mann
3730 Markey
3730 Marks
3730 Marlenee
3730 Martin

3730 Mathis
3730 Mattox
3730 Mazzoli
3730 Meeds
3730 Metcalfe
3730 Michel
3730 Mikulski
3730 Mikva
3730 Miller, Calif.
3730 Miller, Ohio
3730 Mineta
3730 Minish
3730 Mitchell, Md.
3730 Mitchell, N.Y.
3730 Moffett
3730 Mollohan
3730 Montgomery
3730 Moore
3730 Moorhead, Calif.
3730 Moorhead, Pa.
3730 Moss
3730 Mottl
3730 Murphy, Ill.
3730 Murphy, N.Y.
3730 Murphy, Pa.
3730 Murtha
3730 Myers, Gary
3730 Myers, Michael
3730 Natcher

3730 Neal
3730 Nedzi
3730 Nichols
3730 Nix
3730 Nolan
3730 Nowak
3730 O'Brien
3730 Oakar
3730 Oberstar
3730 Obey
3730 Ottinger
3730 Panetta
3730 Patten
3730 Patterson
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3730 Pease
3730 Pepper
3730 Perkins
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3730 Pickle
3730 Pike
3730 Pressler
3730 Preyer
3730 Pritchard
3730 Pursell
3730 Quie
3730 Rahall
3730 Railsback

3730 Rangel
3730 Regula
3730 Reuss
3730 Rhodes
3730 Richmond
3730 Rinaldo
3730 Rodino
3730 Rogers
3730 Roncalio
3730 Rose
3730 Rosenthal
3730 Roybal
3730 Ruppe
3730 Russo
3730 Ryan
3730 Santini
3730 Sawyer
3730 Scheuer
3730 Schroeder
3730 Sebelius
3730 Seiberling
3730 Sharp
3730 Shipley
3730 Sikes
3730 Simon
3730 Sisk
3730 Skelton
3730 Skubitz
3730 Slack

3730 Smith, Iowa.
3730 Smith, Nebr.
3730 Snyder
3730 Solarz
3730 Spellman
3730 St Germain
3730 Staggers
3730 Stangeland
3730 Stanton
3730 Stark
3730 Steed
3730 Steers
3730 Stokes
3730 Stratton
3730 Studds
3730 Stump
3730 Thompson
3730 Thone
3730 Thornton
3730 Tonry
3730 Traxler
3730 Tsongas
3730 Tucker
3730 Udall
3730 Ullman
3730 Van Deerlin
3730 Vanik
3730 Vento

3730 Volkmer
3730 Walsh
3730 Waxman
3730 Weaver
3730 Weiss
3730 Whalen
3730 White
3730 Whitley
3730 Whitten
3730 Wiggins
3730 Wilson, Bob
3730 Wilson, C.H.
3730 Wilson, Tex.
3730 Winn
3730 Wirth
3730 Wolff
3730 Wright
3730 Wylie
3730 Yates
3730 Yatron
3730 Young, Alaska
3730 Young, Fla.
3730 Young, Mo.
3730 Young, Tex.
3730 Zablocki
3730 Zeferetti
3730 NAYS - 58
3730 Aroher
3730 Ashbrook

3730 Badham
3730 Bauman
3730 Bevill
3730 Brown, Mich.
3730 Butler
3730 Caputo
3730 Carter
3730 Clawson, Del
3730 Coleman
3730 Collins, Tex.
3730 Crane
3730 Daniel, R.W.
3730 Davis
3730 Derwinski
3730 Duncan, Tenn.
3730 Edwards, Okla.
3730 English
3730 Gammage
3730 Gonzalez
3730 Hall
3730 Hammerschmidt
3730 Holt
3730 Ichord
3730 Jones, Okla.
3730 Kazen
3730 Kelly
3730 Ketchum
3730 Kindness

3730 Latta
3730 Lott
3730 Lujan
3730 McClory
3730 McDonald
3730 Marriott
3730 Poage
3730 Quayle
3730 Quillen
3730 Risenhoover
3730 Roberts
3730 Robinson
3730 Rousselot
3730 Rudd
3730 Runnels
3730 Satterfield
3730 Schulze
3730 Shuster
3730 Spence
3730 Symms
3730 Taylor
3730 Treen
3730 Tribble
3730 Vander Jags
3730 Walker
3730 Wampler
3730 Watkins
3730 Wydler
3730 ANSWERED "PRESENT" - 1

3730 Bafalis

{H3731} NOT VOTING - 34

H3731 Boggs

H3731 Brown, Calif.

H3731 Cavanaugh

H3731 Derrick

H3731 Dodd

H3731 Fish

H3731 Flood

H3731 Forsythe

H3731 Fraser

H3731 Giaimo

H3731 Gradison

H3731 Hansen

H3731 Harkin

H3731 Hollenbeck

H3731 Howard

H3731 Le Fante

H3731 Leggett

H3731 McEwen

H3731 McKay

H3731 Meyner

H3731 Milford

H3731 Moakley

H3731 Myers, Ind.

H3731 Price

H3731 Roe

H3731 Rooney

H3731 Rostenkowski

H3731 Sarasin

H3731 Steiger

H3731 Stockman

H3731 Teague

H3731 Waggoner

H3731 Walgren

H3731 Whitehurst

H3731 The Clerk announced the following pairs:

H3731 On this vote:

H3731 Mr. Sarasin for, with Mr. Waggoner against.

H3731 Until further notice:

H3731 Mrs. Boggs with Mr. Brown of California.

H3731 Mr. Rooney with Mr. Fraser.

H3731 Mr. Teague with Mr. Leggett.

H3731 Mr. Walgren with Mr. McKay.

H3731 Mr. Le Fante with Mr. Hansen.

H3731 Mr. Howard with Mr. Fish.

H3731 Mr. Price with Mr. Steiger.

H3731 Mr. Giaimo with Mr. McEwen.

H3731 Mr. Flood with Mr. Gradison.

H3731 Mr. Cavanaugh with Mr. John T. Myers.

H3731 Mr. Derrick with Mr. Hollenbeck.

H3731 Mr. Harkin with Mr. Whitehurst.

H3731 Mrs. Meyner with Mr. Stockman.

H3731 Mr. Moakley with Mr. Forsythe.

H3731 Mr. Rostenkowski with Mr. Milford.

H3731 Mr. Roe with Mr. Dodd.

H3731 So the resolution was agreed to.

H3731 The result of the vote was announced as above recorded.

H3731 A motion to reconsider was laid on the table.

H3731 Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) 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.

H3731 The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

H3731 The motion was agreed to.

H3731 IN THE COMMITTEE OF THE WHOLE

H3731 Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2, with Mr. SMITH of Iowa in the chair.

H3731 The Clerk read the title of the bill.

H3731 The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

H3731 Mr. EDWARDS of Oklahoma. Mr. Chairman, I object.

H3731 The CHAIRMAN. Objection is heard. The Clerk will read.

H3731 The Clerk commenced reading the bill.

H3731 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

H3731 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3731 Mr. EDWARDS of Oklahoma. Mr. Chairman, I object.

H3731 The CHAIRMAN. Objection is heard.

H3731 PARLIAMENTARY INQUIRY

H3731 Mr. BAUMAN. Mr. Chairman, a parliamentary inquiry.

H3731 The CHAIRMAN. The gentleman will state his parliamentary inquiry.

H3731 Mr. BAUMAN. Mr. Chairman, my parliamentary inquiry is this: This is just the first reading of the bill, is that correct?

H3731 The CHAIRMAN. It is.

H3731 Mr. BAUMAN. Was the request of the gentleman from Arizona Mr. UDALL that the first reading of the bill be dispensed with?

H3731 Mr. UDALL. Mr. Chairman, if the gentleman from Maryland will yield to me, I would now make that request, that the first reading of the bill be dispensed with.

H3731 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3731 Mr. EDWARDS of Oklahoma. Mr. Chairman, reserving the right to object, I have no intention of putting the Members of this House to further delay. I, too, along with all of the rest of the Members of the House, am tired after the long debate last night. However, Mr. Chairman, I do wish to make a point:

H3731 During the markup in the Interior Committee, the chairman, the distinguished gentleman from Arizona (Mr. UDALL) who is very sincerely presenting this piece of legislation, and who has been a very fair and I think very tolerant chairman, at one point, because of his desire, I believe, actually to get through with the bill, did not protect the rights of the Member from Oklahoma.

H3731 I had objected to a waiver of the reading of this bill in the committee. I did it to pursue a strategy using what few rights still are available to the Members of the minority. And when the chairman later decided that he would accept a motion to overrule the rights of the gentleman from Oklahoma, I decided it was necessary to make a demonstration on the floor to show that the Members of the minority will not be denied the right to protect the people they represent.

H3731 Mr. Chairman, I represent half a million people, and the minority members of the Interior Committee combined represent 7 million people, and the members of the minority in this House represent 70 million people. Mr. Chairman, we will not give up our right to insist that the people we represent be treated with fairness and in accordance with the Rules of the House.

H3731 Mr. Chairman, I withdraw my reservation of objection.

H3731 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

H3731 There was no objection.

H3731 The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 30 minutes.

H3731 The Chair recognizes the gentleman from Arizona (Mr. UDALL).

H3731 Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

H3731 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3731 Mr. WAMPLER. Mr. Chairman, will the gentleman yield to me?

H3731 Mr. UDALL. I yield to the gentleman from Virginia.

H3731 Mr. WAMPLER. I thank the gentleman for yielding.

H3731 Mr. Chairman, while the gentleman from Arizona and I differ in our views on this bill, I should like the record to show that the distinguished chairman of the committee, the gentleman from Arizona (Mr. UDALL), and other members of the committee, plus staff members of the Committee on Interior and Insular Affairs, did visit southwestern Virginia during the past several weeks. They spent the better part of a day there looking on site at some of our problems in strip mining. I just want the record to show that I appreciate - and I am sure that those I represent here in Congress likewise appreciate - their coming to Virginia and seeing first-hand the problems that we have.

H3731 Mr. UDALL. I thank my friend, the gentleman from Virginia, for those comments, and I will tell him that he represents one of the most beautiful areas of the country. Maybe we will have a bill that will let us mine coal and protect that beauty.

H3731 Mr. Chairman, in the Committee on Rules I was telling one of my old political stories of the 1960's. It appears that Khrushchev died and his successors, Brezhnev, and others, were very worried about what to do with the body. They called John F. Kennedy, the President, and asked if they could bring the body of Khrushchev to the United States and bury him quietly here. President Kennedy said, No, it would probably cause great concern and apprehension. He would be attacked by the Republicans, and he was sorry but he could not help.

H3731 Brezhnev then called England's Prime Minister, Macmillan, and asked him, and Macmillan replied that he had a very fragile majority, and should the news of the arrival of the body get out, it would set up a great furor, and his government would go down.

H3731 Brezhnev then called Ben-Gurion in Israel and made the same request. BenGurion said he would always like to help the leaders of friendly foreign countries and that if they came in the middle of the night, they could bury the body in a remote spot - he would give permission. He said, "However, I must warn you that this country has the world's highest resurrection rate."

H3731 The highest resurrection rate for legislation belongs to this surface mining bill. We are back today. The issue will not go away. The time has come, Mr. Chairman, for a decision on this issue. This month, this year, now be ought to resolve it.

H3731 The central substance of this bill I think can be summed up in three principles. We are saying to the country four basic things.

H3731 One is that we need coal. We have got to double the production of coal in the next 10 years. Coal buys time for developing solar energy and buys time to sort out the nuclear options, and buys the ability to get the Arab nations off our backs. We can do it.

H3731 The President's energy policy calls for us to do it. Every energy policy has a strong reliance on coal in the next 20 years. This is a bill not to decrease the production of coal but to increase the production of coal.

{3732} The second guiding principle is that we are going to have uniformity. We are not going to have one set of rules about what can be done to the mountains of southwestern Virginia and another set of rules about what can be done to the mountains in Pennsylvania. There will be one set of rules, one program in the whole country so there will not be unfair competition. It is going to give us certainty.

3732 Coal companies have got to invest in new mines, buy drag lines, get new equipment, and hire new men to open these mines they cannot do it when they do not know what the ground rules are going to be. For the next 20 years they have got to make financial arrangements with the banks and make long-term arrangements that need to be made if they are going to double the production of coal.

3732 The third basic policy in this bill is that while we are going to mine more coal, this time we are going to do it right.

3732 One can go to the beautiful mountains of Appalachia - the ones with trout streams and places that have had beauty forever - and one can see the streams poisoned. There is not any life in them. One can see these hills where for two or three decades these powerful machines pushed the rocks, gravel, and trees down the slopes.

3732 We are going to mine coal and put the land back so we can use it 10 years from now or 1,000 years from now to grow trees and crops and serve the needs of the people of this planet.

3732 The fourth and final principle of this bill is that we are going to go back and do something about the ravages of the past. There is a strip of land equal to a strip from New York to San Francisco a mile wide - just imagine that strip of land a mile wide - ravaged and damaged and lying exposed to the sun and wind, giving off acid drainage, and it stands there as a reproach to all Americans. This bill says we are going to have a modest reclamation fee and half of it is going to go back to the States from which the coal comes and we are going to begin the 30- or 40-year process of putting the land back in condition.

3732 We will close old mines and stop acid drainage and make this land productive once again.

3732 One of the main arguments in the set of arguments surrounding this bill for the past few years has been jobs.

3732 It has been said that we are going to lose jobs. In the last administration the argument was made with a straight face that 36,000 people were going to be put out of work if the predecessor bill to this bill was passed. I was amused to find there are only 36,000 people engaged in the whole coal mining, strip mining industry in the country. Study after study has been made and one can get differing opinions, but I am here to tell the Members today we are not going to have fewer jobs, we are going to have more jobs. I will give \$1 00 to any county in the district represented by the gentleman from Virginia 3 years from now if employment is not up instead of down in the coal business.

3732 The Federal Energy Administrator Mr. Schlesinger, who is in the business of promoting

more energy, gives his position on page 166 of the report. This administration through Mr. Schlesinger after careful review of all the facts said:

3732 The modest costs of reclamation should not noticeably inflate fuel prices. It is money well spent in terms of benefits to the Nation. And, with expanded deep mining and more intensive reclamation efforts, more, not fewer, jobs will result.

3732 If we do it right we need a few more people to do it right, not many more people and not much more expense, but there will be more jobs out of this bill in my judgment.

3732 This is basically the bill we brought here 2 years ago and lost by 3 votes on a motion to override a veto. We strengthened it from what we previously presented on environment. We put in some provisions about blasting so people will not have 300-pound rocks coming into their dining rooms through their windows. We tightened up the reclamation of land requirements and made a few necessary steps in the direction of tighter control.

3732 But there is another main thrust in the changes in this bill, and that is to simplify the bill and to make it easier for industry to comply.

3732 I must say that industry people in most States have been very good. They have come around and said:

3732 We want to do it right. Just give us a bill which is simple and easy to comply with.

3732 This bill has strong support. It came out of our committee with a 33 to 9 vote and with the support of our friends on the other side, among them the gentleman from Michigan (Mr. RUPPE), the gentleman from California (Mr. LAGOMARSINO), the gentleman from California (Mr. DON H. CLAUSEN), who supported it. It is supported by the President and the Secretary of the Interior and by most, not all, of the coal State governors, by the Interstate Mining Compact, and by many of the environmental people and other groups across the country.

3732 It is a long bill, longer than it ought to be. I could write a shorter bill, but when we try to accommodate the various views of all the people in the West and East and other coal-producing regions we find difficulty. We think we have a good bill.

3732 Let us put this behind us. Let us put this one piece of our energy mosaic in place. We have

to pass before Christmas a whole range of energy measures. This is an essential and key piece of our energy policy. With the help of my colleagues today we can get on with the other problems of energy and put this bill on the books where it should have been long ago.

3732 Mr. RISENHOOVER. Mr. Chairman, will the gentleman yield?

3732 Mr. UDALL. I yield to the gentleman from Oklahoma (Mr. RISENHOOVER).

3732 Mr. RISENHOOVER. Mr. Chairman, I thank the gentleman for yielding.

3732 Mr. Chairman, I, too, have some reservations about the provisions in this bill. I would like to point out that several Members of the majority of the Committee on the Interior also dissented in the writing of this legislation. My district in northeastern Oklahoma for the past decade has been an example of what can be done in the way of land reclamation; but unfortunately, prior to that time there are some examples of very bad stripmining that the provisions of this bill will help to reclaim and cure.

3732 I just want to say simply, as I said before, I disagree with the provisions of the bill. I think all of us realize that the chairman had the votes in the committee to have written a much stronger and, in my opinion, more detrimental position than the legislation that has come forth.

3732 Mr. Chairman, I commend the gentleman for his fairness.

3732 Mr. UDALL. Mr. Chairman, the gentleman has been a great help as a Member of our committee. I thank the gentleman.

3732 Mr. BAUMAN. Mr. Chairman, I yield myself 2 minutes.

3732 Mr. Chairman, the gentleman from Arizona has once again presented his well-known views on this legislation. Seven years of dealing with it has polished the gentleman's oratory. There is very little change in the factual statements as the gentleman presents them.

3732 I noticed in presenting his views the gentleman did not address at all the points that I raised about the the EPA, CEQ study that states unequivocally that from 800,000,000 to 8 1/2 billion tons of coal will be removed from our reserve base forever and that 200 million tons by 1985 will be precluded from-production; that at least 4,300 jobs will be lost, all because of this bill. The gentleman talks in general terms. He predicts more jobs. The only possibility I can see in any of the

reports about increased employment is that it may take more new bureaucrats to administer the programs in this bill than the number of people it will put out of work. That is hardly a laudable goal by any means. He offers no answer to the increased costs consumers must pay because of this bill. He accepts them, I gather, as desirable. But let us not fool the American people. We are faced today by the same kind of legislation that Congress has passed dealing with clean air, with clean water, all with laudable environmental goals. We know what the courts have done with this. This bill is another open invitation to tie up coal production for years at a time we must have energy.

3732 President Carter demands a unified energy policy that will help America and its people. This bill should not be part of such a policy.

3732 Mr. Chairman, I yield 2 minutes to the distinguished ranking Member, the gentleman from Kansas (Mr. SKUBITZ), who appears today with a slight infirmity.

3732 (Mr. SKUBITZ asked and was given permission to revise and extend his remarks.)

3732 Mr. SKUBITZ. Mr. Chairman, this is a better constructed and a more reasonable bill than presented to this committee last year.

3732 There are still provisions in this bill - particularly those relating to the distribution of reclamation fee funds - which I strongly oppose and will attempt to remedy by offering amendments when we reach the amending stage.

{3733} It is my belief that in view of President Carter's energy speech and the creation by this body of an ad hoc committee to review all energy producing legislation, it would be wise to defer action on this bill until the ad hoc committee has had an opportunity to review all energy legislation and present its recommendation.

3733 However, having said all this, if, in the wisdom of this body my positions are not supported, I shall still support the bill and vote for it.

3733 On April 25 I received a Dear Colleague letter from the chairman of our committee stating that Secretary Andrus and Mr. Schlesinger both supported this bill. I read from Mr. UDALL's letter:

3733 Endorsed by President Carter, Secretary of the Interior Andrus and Dr. Schlesinger - the

strip mining bill is a vital part of the President's overall energy program in that enactment of the bill will finally put environmental rules in place and allow the industry to get on with the job of expanding coal production.

3733 With this conclusion I cannot agree.

3733 In the first place, Secretary Andrus appeared before our committee presumably to testify on the bill.

3733 At that time I asked the Secretary if he was ready to give his views on the provisions of the bill, and he said that he was not. I read from the hearings of February 8, pages 16 and 17:

3733 Mr. SKUBITZ. I hope that our chairman will have you down here once again before the markup of this bill when you are thoroughly familiar with all of the provisions of the bill and can speak to them. I can not believe, Mr. Secretary, that in this short time you have been able to master all of the controversial qualities with respect to this bill.

3733 The CHAIRMAN. He is pretty quick.

3733 Mr. SKUBITZ. Will you assume that you are thoroughly familiar with every provision of the bill and are you ready to testify at this moment to questions?

3733 Secretary ANDRUS. Mr. Chairman, Congressman, No, I don't sit before you this morning saying I know.

3733 Mr. SKUBITZ. I wouldn't think so, Mr. Secretary.

3733 Secretary ANDRUS. No, sir.

3733 I do not recall, nor can I find where Mr. Schlesinger appeared before the committee and testified.

3733 Mr. Schlesinger did submit a letter on February 15, which stated, and I quote from the letter which urges "expeditious passage of the legislation which your committee has so effectively developed."

3733 The point I am trying to make is that neither Secretary Andrus nor Mr. Schlesinger addressed themselves to the bill before us, but in fact were only endorsing the need for strip mining legislation, and on that point, none of us are in disagreement.

3733 When I first came to the Congress of the United States, I became a member of the Interior

Committee, and was placed on the Subcommittee on Mines and mining.

3733 I immediately began exploring ways to legislate protection of the land and to receive some sort of tax from coal operations that could be used to restore open lands which scarred the area, so that these lands could once again be restored to production and placed back on the tax rolls.

3733 I began working on remedial legislation long before some of the so-called champions of conservation and the environment were even Members of this body.

3733 I am no stranger to the environmental damage resulting from strip mine operations. I have over 55,000 acres in my county and more in the adjoining county where I first started teaching school. I saw the school in which I taught close its doors when the coal was mined and the shovels left. No tax base, no school.

3733 Eleven years ago, before most of the sponsors of this bill were Members of this body, I was seeking legislation that would levy a reclamation tax on coal that would be used to restore orphan lands.

3733 I have always believed the objectives and purposes of H.R. 2.

3733 It is true I supported President Ford's veto and I did so because I thought that in view of the critical shortage of energy and admonition of President Ford and the Federal Energy Administration that the bill at that time would cause unemployment and would affect coal production. I thought it was time to stop and take another look.

3733 However, we have a new administration now and that administration feels that it is willing to assume the responsibility that this bill will not create unemployment, that it will not hinder the production of coal. I think it is in error, but I am not going to be an obstacle to its course of action.

3733 Now, with regard to my major objection to this bill, the distribution of the reclamation fee. Section 401(h) relating to abandoned mine reclamation funds states, I quote from page 207:

3733 Up to 50 percent of the funds on an annual basis derived from coal production in a State or Indian reservation may be allocated to the State from which the reclamation funds are derived by the Secretary of the Interior for the implementation of an approved State reclamation program pursuant to section 404.

3733 Now, let me point out that the bill carries the word that up to 50 percent may be allocated. I want to point out to the Committee that the bill initially provided that it "shall be allocated." Make no mistake, when we get into conference, the word "may" will be changed to "shall" making it mandatory for the Secretary to spend 50 percent in the States where coal is mined.

3733 Now, the facts are, that most of this coal is going to be mined in the Western States and those States have little or no orphan lands to be reclaimed.

3733 So, why 50 percent of the reclamation fee to that area? Well, this bill takes care of that. In section 401(c) of the bill, page 205, we find that the funds can be used for - and I quote:

3733 For the acquisition and filling of voids - and sealing of tunnels, shafts, and entryways under section 407.

3733 Section 407 applies not only to abandoned coal mines, but to any kind of tunnel, or shaft, whether it be an abandoned gold, abandoned silver - or any kind of a mine. I submit that the reclamation collected from coal to be used to reclaim orphan coal lands should not be used for another purpose.

3733 Let those industries take care of their own misdeeds. But that is not all. When you turn to section 402, page 208, entitled "The Primary Objectives of the Fund," we find this.

3733 And I quote:

3733 The primary objective for the obligation of funds is the reclamation of areas affected by previous mining, but other objectives shall reflect the following priorities in the order stated:

3733 "The protection - construction - or enhancement of public facilities - such as utilities, roads, recreation and conservation facilities and their use."

3733 Why should a reclamation fee on coal to reclaim abandoned coal land be used to build utilities, roads, and recreation, at the expense of the consumer of coal?

3733 It is not right, it is not fair, it is not just, and it is not reasonable.

3733 Mr. UDALL and the chairman of this committee made it quite clear to the committee that the reason for this process was a compromise used in order to get votes.

3733 My amendment will be to strike these provisions so that the reclamation funds for orphan lands will be used to reclaim orphan lands.

3733 I would like to point out to the committee that I offered such an amendment in committee and it was accepted but on the following day - for reasons I am not familiar with - the committee changed its position. I thank the committee for listening to me. I hope the Members will be present when amendments are submitted to this bill.

3733 But whether these amendments are accepted or not. I reiterate that I will support the bill.

3733 Mr. UDALL. Mr. Chairman, will the gentleman yield?

3733 Mr. SKUBITZ. I yield to the gentleman from Arizona.

3733 Mr. UDALL. Mr. Chairman, the gentleman from Kansas is a very constructive legislator. He is a pleasure to work with, and it is a loss to the country that he does not have his voice today so that he can help us in this bill. I want to say that we have a better bill here because of the gentleman from Kansas. He has helped us improve it, and I thank him very much for his help in voting this bill out of committee. I am very proud to have had his support.

3733 Mr. SKUBITZ. I thank the gentleman.

3733 Mr. UDALL. Mr. Chairman, I yield myself 2 minutes.

3733 I have been asked by a number of my colleagues about our plans for trying to conclude consideration of this legislation. The Speaker and the leadership have advised me that it is their policy on Thursdays to conclude whatever measure is on the floor by 5:30, or 6:00 at the very latest. In the light of our experience last night, we might not all be standing on our feet much longer than that.

3733 We will finish the general debate at about 3:30, and that will give us roughly 2 hours on amendments. A number of amendments have been proposed which will not be offered, and we have worked out modifications on some of the others.

{H3734} My judgment is that there is about one chance in two or three of finishing tonight. If the speeches are kept short and we try to be harmonizing and agreeable, we might conceivably get through today. If we do not, the leadership tells me that it plans to come in tomorrow at 11 o'clock. I would think that within an hour or two we should wind up this bill tomorrow.

H3734 Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

H3734 Mr. UDALL. I yield to the gentleman from Maryland.

H3734 Mr. BAUMAN. Perhaps potential Presidents might have greater power than just the leadership or the Speaker of the House. I would suspect that the House might wish to stay and finish tonight despite our late hour last night. I would hope that the gentleman would use his great influence in that direction.

H3734 Mr. UDALL. Let us see how we go. We are going to be rather careful of our time in general debate and move along as rapidly as we can on the amendments.

H3734 Mr. BAUMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. RUPPE).

H3734 (Mr. RUPPE asked and was given permission to revise and extend his remarks.)

H3734 Mr. RUPPE. Mr. Chairman, this afternoon I rise in support of this legislation. As I said during the discussion on the rule, I believe it is a very reasonable and very well-balanced piece of legislation. I think the bill and its sponsors do take into account President Carter's energy message, and I believe that there are a number of provisions in this bill that will make surface coal mining easier to undertake in the future than would have been the case with pieces of legislation that have been presented previously.

H3734 Also, I would like to say that in view of the fact that this legislation is apt to pass, and if passed will be signed by the President, it appears to me that the mining industry this time has made a number of constructive suggestions. I believe they are reasonably satisfied with this piece of legislation, recognizing, I suppose, that no one likes to have any intrusions into his own business affairs. As the same time, I do think that the members of the committee, recognizing that there would be no veto of this legislation, have not considered this as the political exercise that perhaps some people would have looked at it a year ago.

H3734 I think we recognize that it is most likely going to become law. Therefore, I compliment the committee for working very hard and very diligently to make this a good piece of legislation

H3734 It does set standards for surface coal mining in the United States. I think that should be

done. Landowners, the public, and residents adjacent to mine areas should be protected. They deserve and have the right to the environmental standards we have in this legislation. At the same time, I believe for industry it does remove a great deal of uncertainty that has been in the air the last several years.

H3734 I am convinced a lot of mining starts in the United States, certainly in the West, have not been undertaken because companies were not certain of the ground rules under which they would operate. Now, I believe they have that certainty. Again, I reiterate we have gone a long way to meet the suggestions of President Carter that we increase by two-thirds our coal mining capacity in the next 2 years. We have provided for mountaintop removal, which previously was not provided for.

H3734 We also have changed the definition of "original contour" to meet the criticism of those who said it would be very difficult to achieve in all instances. We now provide for terracing in the definition of "original contour." That is flexibility we did not have in previous legislation.

H3734 We have also gone a long way to permit, for a time at least, the mining of alluvial valley floors. The alluvial valley floors are essential areas that should be protected, in most instances, against mining; but we said in this piece of legislation that if a company is operating in that area today, it can continue to operate in that alluvial area.

H3734 We also say that if a company has a State permit, it can continue ahead with its mining operation.

H3734 So I believe we have gone a long way toward making it easier for those companies who have present operations contemplated in the West to continue as planned. But I think we have done specific things to be proud of. We certainly do protect the alluvial valley floors in the West if they have been used for agricultural purposes and if mining would damage those alluvial valley floors. I think that is right. We should protect those areas and the people who live near them and could be affected by surface mining operations.

H3734 We do protect the prime agricultural lands in the Midwest, Indiana, Illinois, and Iowa, and we do protect the topsoils, the A, B, and C horizons. We do see to it that those lands have to be put back so that they can be put into production in the same fashion as they were before the mining

operations so that these marvelous corn lands in the Midwest can be as productive after the mining operations as they were before.

H3734 Under the previous bill, if an individual owned surface land, and the Federal Government the minerals, he could sell the land for the best deal. If he decided just to live on that land, he had to live with a very convoluted formula.

H3734 Let me say, finally, that the chairman of the Coal Association said that last year there were 100 million tons of unused coal productive capacity in this country. So the country can stand this legislation.

H3734 Mr. UDALL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wyoming (Mr. RONCALIO), one of our most valuable committee members.

H3734 (Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

H3734 Mr. RONCALIO. I thank the gentleman for yielding.

H3734 Mr. Chairman, I would like to take just a few minutes to discuss and get into the RECORD an item to make legislative history, on this legislation, on the effect of H.R. 2, this bill, upon the alluvial valley floor grandfather clause on Wyoming mines existing now and planned. I believe that a high percentage of coal to be strip mined in America will be coming from my own State of Wyoming.

H3734 Section 510(b)(5) of this bill contains a proviso which grandfathers certain mines from having to meet the alluvial valley floor criteria of paragraph (a) and (b) of section 510(b)(5). Specifically, mines would be grandfathered if they, first, produced coal commercially in the year prior to enactment of the act, or second, had obtained a State permit for the mine prior to January 4, 1977, or third, made substantial legal and financial commitments to the proposed mining operation prior to January 4, 1977.

H3734 I have contacted the Wyoming Department of Environmental Quality, Mr. Walter Ackerman, and several of the companies involved, and, thanks to my excellent staff, we have obtained the following information as to how the 510(b)(5) language, as presently drafted, might affect existing or planned mines in Wyoming with State permits issued since late 1974.

H3734 Category 1 is the permitted mines now producing coal under the grandfather clause, and I will give the names, the county or location, the State permit issued, and the status of these mines. That will be included at the end of my remarks. These companies range from the Big Horn Coal Co. on the Tongue River to the Cordero-Sun Oil Co. in Campbell County. In the interest of time, I am skipping over those, but those names will be included in the RECORD.

H3734 Category 2 is a list of mines with permits but not yet producing. They will be grandfathered in under provisions of paragraph (2). This list begins with the Black Thunder - ARCO - Mine in Campbell County and runs down through six mines, through the Ash Creek Mining Co. in Sheridan County, which is not producing.

H3734 Category 3 consists of mines with no State permits but which may be grandfathered under test of paragraph (3) if the Secretary determines that they have made "substantial financial and legal commitments" to the project prior to January 4, 1977. This list includes the very highly controversial "Whitney Benefits" mines on the Tongue River in Sheridan County in northern Wyoming, the E. Gillette Mine, the Rochelle - Peabody Coal - Mine, another Peabody coal mine, the Coal Creek - ARCO - Mine, the Buckskin - Shell Oil - Mine, and the Consolidated Coal - Mobile Oil - Mine in Johnson County. Those are the mines in that third category.

H3734 Thus, there is a strong possibility that the Whitney Benefits Mine may be grandfathered under H.R. 2 as presently drafted. This result could be avoided by changing the "or" on line 19 of page 259 back to "and" - thus undoing the Runnels amendment which I offered for him in committee. This, of course, would affect all the mines listed under category 3, earn the praise of environmental groups and a general damnation from the companies involved.

{H3735} } Mr. Chairman. I do not propose to think that we can write a bill that will eliminate all litigation to take place in every State of the Union where coal may be strip mined in years to come. I do hope - and I believe that is the intent of this bill - that we can fashion a law which will permit the State licensing authorities to govern where there reclamation permits are more stringent.

H3735 The CHAIRMAN. The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

H3735 Mr. UDALL. Mr. Chairman, I yield 1 additional minute to the gentleman from Wyoming

(Mr. RONCALIO).

H3735 Mr. RONCALIO. Mr. Chairman, I would like to ask the chairman of the full committee if he would concur with me or tell me if that statement of mine is accurate. This bill allows the States to govern in this area when the State reclamation programs are more stringent?

H3735 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3735 Mr. RONCALIO. I yield to the gentleman from Arizona.

H3735 Mr. UDALL. Mr. Chairman, the gentleman is correct. Absolutely.

H3735 Mr. RONCALIO. Very good. The reason for this is that I hope this will settle the mining issue. Taking place in alluvial areas. It will stop mining - or more accurately prohibit it - in such valleys as Clear Creek in Sheridan County, Wyo., and other places where, for the good of agriculture and the love of the land, as well as the general good of the area, strip mining has to be forbidden. Page 119 of the report elaborates on this.

H3735 Mr. Chairman, at this point I include the categories and the list of mines I mentioned previously, as well as other extraneous material, as follows:

*4*CLASS I
*4*1. PERMITTED
MINES WHICH ARE NOW
PRODUCING COAL
(GRANDFATHER UNDER

(1) ABOVE)

Name and company n1	County/location	State permit issued	State Producing since
Big Horn Coal Co	Tongue River	Jan. 31, 1975	1944.
Welch Coal Co	Sheridan	Feb. 19, 1975	Producing.
Gunn Quealy	Sweetwater	Feb. 26, 1975	Do.
Columbine	do	Oct. 31, 1975	Do.
			Producing since
Pac. Power & Light	Converse	Mar. 25, 1975	1958.
Muddy Creek	Freemont	Apr. 18, 1975	Producing.
Medicine Bow Coal Co. n1	Carbon	May 13, 1975	Longtime
producing.			
Energy Development	do	do	Producing.
Bridger Coal	Sweetwater	May 22, 1975	Do.
Rosebud Coal Sales	Carbon	June 30, 1975	Do.
Arch Minerals	do	do	Do.
Kemmerer	Lincoln	do	Longtime
producing.			
Belle Ayr South	Campbell	Nov. 26, 1974	Producing.

Wyodak	do	do	Do. Producing
December Cordero-Sun Oil Co	do	Jan. 9, 1975	1976.
CLASS II			
2. MINES WITH PERMITS BUT NOT YET PRODUCING (GRANDFATHER UNDER (2) ABOVE)			
Black Thunder November (ARCO)	Campbell	Dec. 3, 1974	Anticipated production 1977 or early
1978. Rawhide (Carter-Exxon)	do	Jan. 31, 1975	Producing July 1, 1977.
Caballo (Carter-Exxon)	do	June 21, 1976	Producing July 1977; no Federal permit yet.
Eagle Butte (AMAX) Jacobs Ranch (Kerr-McGee)	do	May 5, 1976	Producing spring 1978.
Ash Creek Mining Co (Kerr-McGee)	do	Mar. 19, 1975	Producing late 1977.
Sheridan Ash Creek Mining Co	Sheridan	Jan. 19, 1976	Not producing.
CLASS III			
3. MINES WITH NO STATE PERMITS, BUT WHICH MAY BE GRANDFATHERED UNDER TEST OF			
(3) ABOVE IF SECRETARY DETERMINES THAT THEY HAVE MADE "SUBSTANTIAL FINANCIAL AND LEGAL COMMITMENTS" TO PROJECT PRIOR TO JAN. 4, 1977			
"Whitney Benefits" (Peter Kiewit Sons).	Tongue River	No permit	State application withdrawn - to be resubmitted.
E. Gillette (Kerr-McGee)	Campbell	Feb. 15, 1977	Producing early 1979.
Rochelle (Peabody Coal)	do	No permit	Producing 1979.
Peabody Coal (no name)	do	do	Producing early 1980's.
Coal Creek (ARCO)	do	do	Do.
Buckskin (Shell Oil)	do	do	Do.
Consol. Coal (Mobil Oil)	Johnson	do	No current production.

[See Table in Original]

H3735 n1 As indicated, many of these mines are long time producers whose permits were revised in 1974 and 1975 to comply with Wyoming's new laws, Mines with permits issued prior to late 1974 are all in production and would be grandfathered under (1) above.

*6*OCCURRENCE
OF ALLUVIAL

VALLEY FLOORS
 N1 IN AREAS
 OF PROPOSED
 SURFACE COAL
 MINES WITH
 FEDERAL
 INVOLVEMENT:
 MONTANA,
 WYOMING,
 COLORADO, AND
 NEW MEXICO n2

	Size of proposed mine area (in square miles)n2, n3	Size of alluvial valley floor in proposed mine area (in square miles)	Percent of proposed mine area classed as alluvial valley floor	Source of information	activity alluvial valley
Agricultural in Name of proposed mine floor Montana:					Dear Creek Valley
used					in places for
cultivation					of hay. Other
agricultural					activity limited to use as natural pasturage.
1. Decker Coal Co. - Decker East	3.46	0.13	3.7	Open-file report 76-162	
Agricultural					activity limited to use as natural pasturage.
2. Decker Coal Co. - Decker North	2.13	.07	3.3	do	
3. Shell Oil Co. - Youngs Creek Wyoming:	3.28	.03	1.0	do	Do.
4. Amax - Belle Ayr North	4.43	.07	1.6	Unpublished surficial geologic map (V. S. Williams, 1975). Unpublished	Do.

5. Carter Oil Co. - Caballo	824	.23	2.8	surficial geologic map (D. S. Fullerton, 1975). Unpublished surficial geologic map	D Do.
6. Kerr-McGee No. 2 East Gillette	4.73	.02	.4	(V. S. Williams, 1975). Unpublished surficial geologic map	Do.
7. Peabody Coal Co. - Rochelle	3.21	.08	2.4	(D. A. Coates, 1975). Unpublished surficial geologic map	Do. Belle Fourche River
8. Sun Oil cultivation Co. - Belle Fourche (Cordero)	6.42	.13	2.0	(D. S. Fullerton, 1975). Unpublished surficial geologic map	used in places for of hay and forage crops.
9. Arco - Coal Creek Colorado:	9.42	.19	2.0	(D. A. Coates, 1975). Unpublished surficial geologic map	Do.
10. Peabody Coal Co. - Seneca II - alluvial Yost (Area B).	.670	None	0	Photointerpretation, R. F. Madole, 1976	No valley floor.
Peabody Coal Co. - Seneca II-W (Area C).	1.11	None	0	do	Do.
11. Utah International - Yampa	10.50	None	0	do	Do.
12. W. R. Grace - Colowyo New Mexico:	1.92	None	0	do	Do.
13. Peabody Coal Co. - Star Lake	17.07	None	0	Photointerpretation, H. E. Malde, 1976	Do.

H3735 n1 The term alluvial valley floor as used here includes [*] valleys where width exceeds 25 ft (8 m) and includes stream channel, flood plain, and low [*] terrace deposits. They may be subirrigated by underflow of near-surface water or [*] [*] of flood flow. Included are alluvial terraces generally not higher than 5 ft (1.5 m) [*] [*] floor of small streams but as alluvial fans or colluvium, either at a steep a few [*] (about 1 m) high or, less commonly, along a line at which the ground surface begins to slope upward.

H3735 n2 Excludes proposed extensions of three operating mines: Western Energy - Colstrip; Utah International - Navajo (Wesco); and Westmoreland - Absaloka (Sarpy Creek); and proposed Burnham mine of El Paso Natural Gas for which detailed mining plan has not been filed.

H3735 n3 Total area likely to be surface-mined according to mining plans on file with the Conservation Division, USGS, data from Eastern Powder River EIS, and data from State agencies.

H3735 n4 Alluvial valley floor crosses \$margin or corner of proposed mine or holdings.

{H3736} Mr. BAUMAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Arizona (Mr. RUDD), a valued member of our committee and a freshman Member.

H3736 (Mr. RUDD asked and was given permission to revise and extend his remarks.)

H3736 Mr. RUDD. Mr. Chairman, I am opposed to this bill and strongly urge its defeat.

H3736 This proposed surface mining legislation is highly restrictive against the mining of coal on bottom land and most farm land.

H3736 It will add another level of Federal bureaucracy that is unnecessary and counterproductive to efforts of the 34 States that already have good strip-mining legislation on the books.

H3736 This new level of Federal bureaucracy will have the power to review and overrule each State program, and in effect will make State governments agents of the Federal bureaucracy to enforce Federal laws and regulations, which will often be, against the best interests of the States themselves.

H3736 This bill will shackle coal production - which is hardly consistent with the President's energy proposals.

H3736 The President told Congress last week that the United States must look first to coal to reduce our massive dependence upon oil. As part of his energy goals, to be achieved between now and 1985, the President asked Congress to commit the Nation to increasing coal production on an annual basis by at least 400 million tons - to more than a billion tons of coal produced each year.

H3736 Mr. Chairman, to produce the additional quantity of coal envisioned in the President's energy program, it will require an estimated 40 additional surface mines producing five million tons of coal per year.

H3736 It will also require an estimated 75 new underground mines producing 1.5 million tons of coal per year. These underground mines would be over and above planned production and expansion of the coal mining industry.

H3736 Reasonable people should be staggered by the standards and controls which this bill will impose upon the surface mining of coal. They should also be numbed by the reality that the procedural impediments written into this legislation could indefinitely delay the recovery and use of coal resources.

H3736 Let us briefly review these requirements for overlapping and extremely time-consuming environmental impact procedures that will seriously impede and delay needed coal production:

H3736 First, section 702(d) of this bill requires the preparation of three separate environmental impact statements under section 102 of the National Environmental Policy Act of 1969.

H3736 These must be prepared before approval of State implementation programs under section 503 of this bill, before promulgation of Federal programs under section 504 of the bill, and before implementation of a Federal lands program under section 523 of the bill.

H3736 But these three separate environmental impact statement requirements under H.R. 2 are only the beginning.

H3736 A careful reading of this bill in light of court decisions interpreting Federal environmental statutes already on the books indicates that there are at least three additional environmental impact

statements that must be completed in implementing H.R. 2 - for a total of six separate environmental impact statements.

H3736 Federal court decisions have required environmental impact statements at any point of "significant Federal action."

H3736 This means that such impact statements would also be required under section 501 of the bill - environmental protection standards, section 506 - permits, and section 522 - designating areas unsuitable for surface coal mining.

H3736 Experience has shown that preparation of an environmental impact statement can take anywhere from 1 to 3 years.

H3736 The statement must be initially drafted, then circulated for review and comment by other affected agencies, States, and the public. It must then be rewritten in final form.

H3736 If there are any conflicts over alternative courses of action, studies must be made to develop or justify the final decision.

H3736 Assuming that the Government has the necessary manpower and resources to do all this work - and that there are no court challenges - implementation of H.R. 2 could consume up to 4 years.

H3736 And for what useful purpose should these extensive and time-consuming environmental impact statement requirements under the National Environmental Policy Act be imposed in implementing H.R. 2?

H3736 Under National Environmental Policy Act, such statements require Federal agencies to consider the environment and the alternatives to the proposed action.

H3736 H.R. 2 is itself a consideration of the environment. That is its whole purpose. And it does not permit the consideration of alternative courses of action to conduct strip mining, since specific action is mandated under its provisions.

H3736 Mr. Chairman, this legislation, which superimposes over already adequate State programs a new network of national surface mining and reclamation controls, will require no less than 20 Federal actions which could require individual environmental impact statements.

H3736 And these would be prepared and filed after some 27 public hearings are held to implement the terms and provisions of the bill.

H3736 I defy anyone to show how this bill will expedite the production of coal.

H3736 The President has asked for the production of a billion tons of coal a year. This will require a 65-percent increase in current coal production.

H3736 The American people want Congress to support a reasonable and good energy program to make the United States independent of foreign oil and to provide all our energy needs.

H3736 Members of the House should pass legislation that will strike a reasonable balance between our environmental concerns and our energy needs.

H3736 This body should not pass a bill like H.R. 2 that threatens to undermine and subvert needed energy production and priorities.

H3736 Proponents of H.R. 2 - and those who are prepared to vote for this bill's passage - must justify to the American people their insistence on imposing restrictive legislation that refuses to strike the needed reasonable balance between environmental concerns and our energy needs.

H3736 Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

H3736 (Mr. PANETTA asked and was given permission to revise and extends his remarks.)

H3736 Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 2, as reported by the Interior Committee. We have gone through this issue with five bills in three successive Congresses, only to see four of those bills, all very similar to H.R. 2 defeated on a rule or vetoed. Now is the time, under the strong leadership of Chairman UDALL and the support of the President finally to pass a strip mining bill.

H3736 I need not go into the details of why this legislation is necessary. The issue is a very basic one - will we make use of the technology we now have available to us to restore and preserve the beauty of thousands of acres of land in this Nation? I believe we must.

H3736 In fact, I would go so far as to say that there is no great debate about whether in fact we

need a strip mining bill, but rather about what kind of bill we need. H.R. 2 was reported by the Interior Committee - a committee with a rather independent-minded and free-wheeling membership - by a vote of 39 to 3. Certainly, such support for the bill as it stands attests to the fact that the bill represents a fair and equitable compromise on the many complex details involved in regulating strip-mining.

H3736 I would also suggest that there is another hidden benefit in H.R. 2, beyond the simple preservation of our lands. The mining industry has been working for several years with a veritable sword of Damocles over their heads - when would there be a strip mining bill and what would be its provisions? Such doubts were an impediment to the full-steam-ahead kind of production of coal that we must have. Passage of H.R. 2 would put an end to those doubts and allow the mining industry to continue to make its vital and valuable contribution to our energy system.

H3736 On that note of conciliation, Mr. Chairman, I conclude by urging the support of every Member of this body for H.R. 2, as reported by the committee.

H3736 Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DON H. CLAUSEN).

H3736 (Mr. DON H. CLAUSEN asked and was given permission to revise and extend his remarks.)

H3736 Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 2. In the past 5 years, Congress has engaged in a prolonged legislative effort to produce an acceptable strip mining law. Accordingly, H.R. 2 is better balanced and drafted than its predecessors, permitting orderly implementation and mitigating production and employment losses.

{H3737} } Although the major coal producing States have legislation to regulate surface mining, these laws vary greatly in procedure and enforcement. Federal legislation will alleviate these discrepancies, removing unfair competitive advantage of States with less stringent regulations.

H3737 Based on President Carter's energy address to the Congress, coal will play an increasingly important role in our total energy picture. As this shift to coal occurs, it is clear to me that we will have to have some form of uniform and minimum standards for the reclamation and rehabilitation of the lands which are mined. This legislation, H.R. 2, in my opinion, will apply these standards in a

fair and equitable manner for all engaged in surface mining activities.

H3737 Considering the arid climate and lack of water in that region, land reclamation may be impossible following some surface mining operations. Under such circumstances, I believe it should be national policy that mining not be allowed. In other words: If reclamation is not possible, coal surface mining should not be permitted.

H3737 I continue to oppose section 510(b)(6) "consent of private surface owners to mine private coal." The committee's amendment to this section appears to confer new property rights on some surface owners in all States and to impose a new concept of Federal property law in an area traditionally reserved for the States. I believe this provision should be closely scrutinized and deleted.

H3737 With this reservation, I submit H.R. 2 to my colleagues for their approval.

H3737 Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. DUNCAN).

H3737 (Mr. DUNCAN of Tennessee asked and was given permission to revise and extend his remarks.)

H3737 Mr. DUNCAN of Tennessee. Mr Chairman, I thank the gentleman for yielding.

H3737 Mr. Chairman, I have several objections to the bill we have before us now, H.R. 2, the Surface Mining and Reclamation Act of 1977. However, in the interest of brevity, I wish to address only two concerns, problems with this legislation which I find particularly troublesome.

H3737 My first concern is with the requirements for strip mined land reclamation. I do not mean to imply that such lands should be left as ugly, barren scars on the countryside. I do, though, feel it is unrealistic and counterproductive, in many cases, to require that strip mined lands be returned to their approximate original contours. Many strip mining areas, and this is certainly true of my own State of Tennessee, are located on hilly, generally commercially unusable lands - unusable except, of course, for strip mining. If, after the coal is removed, such lands must be restored to their original contours, most, if not all possible future economic benefits the land may provide are lost. Lands leveled through strip mining, if they could be restored but left level, would be suitable for farming

and other economically productive pursuits.

H3737 I do not wish to disparage the value of aesthetically pleasing landscapes. However, such concerns do not mean much to a man who needs land on which he can support a family.

H3737 Another important consideration with regard to land reclamation involves increased costs from this activity. No one will dispute the fact that to return a strip mined area to its approximate original contours is a very expensive undertaking. These increased costs will have to be passed on to consumers somewhere along the line. In areas where coal is used extensively in the production of electricity, as it is in many sections of our Nation, the resulting increases in utility bills would mean an even greater burden being placed upon economically strapped homeowners and others who have already seen their utility costs skyrocket in the past few years.

H3737 The costs of this land reclamation would also place an undue burden on small strip mining operators. It is reasonable to assume that many of them, unable to meet these costs, would be put out of business.

H3737 My second major objection to H.R. 2 involves the authority this legislation grants to the Federal Government to dictate to the various States what should be done with their respective strip mined lands. I seriously question whether we in Congress have the wisdom necessary to create strip mining legislation which can be applied to every State fairly. Circumstances under which strip mining is conducted vary greatly from State to State, from one area of the country to another. There are also wide variances in the economic and social needs and values of the people involved. I am not convinced that any omnibus Federal legislation can address all these variables, and others, in an effective and equitable manner.

H3737 The problems associated with surface mining, and there are indeed problems, are, I believe, problems best left to the individual States to resolve. Many States including Tennessee, have strong, effective, and enforceable surface mining laws. Federal legislation would be, in my opinion, unnecessary in many instances and in others would usurp powers which rightly belong to the States.

H3737 Mr. Chairman, I hope my colleagues will give serious consideration to these objections, and others, which, I feel, make H.R. 2 a bad piece of legislation.

H3737 Mr. UDALL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland (Mr. SPELLMAN).

H3737 (Mrs. SPELLMAN asked and was given permission to revise and extend her remarks.)

H3737 Mrs. SPELLMAN. Mr. Chairman, I would like to have just a little colloquy with the floor manager, the gentleman from Arizona, if I may.

H3737 As the gentleman knows, I have an amendment to section 502 to phase out strip mining operations on steep slopes, that is, slopes of 20 degrees or more. As we all know, 19 degrees is considered the angle of repose, that is, the angle above which matter has the greatest tendency to slide. Since strip mining entails drastic disturbance of the land in order to get at the coal underneath, there is a real danger on slopes or more than 20 degrees that the disturbed matter will slide and create havoc.

H3737 Strip mining on slopes over 20 degrees is the most damaging of all. The Stanford Research Institute, in a study done for the West Virginia Legislature, emphasized that when the slope is 20 degrees and over, 3 to 5 acres are severely disturbed for every acre mined. When it rains on the steep slopes - and much of the steep slope that would be mined happens to be in areas of heavy rainfall - the environmental and property damage is severe - flooding, mud slides, landslides, acid drainage. In fact, the recent floods in southwest Virginia this spring, which caused severe damage, can be attributed (in great part, to the steep-slope mining operations in the area.

H3737 Mr. Chairman, we have seen some real devastation in Appalachia, in the State of Maryland, and in other States. We have seen homes slide away, boulders roll down into backyards, mud slide downhill and across town. This greatly concerns me and many of our colleagues.

H3737 I am advised that the committee has attempted to address itself to this problem.

H3737 Mr. Chairman, I would like to know what the committee has done in that regard.

H3737 I also have looked at the Pennsylvania experience, and have seen the revitalization of slopes well over 20 degrees. I have seen restoration of enormously steep slopes in my own county and know it can be done successfully. Since the committee has provided this protection for steep

slopes, that land which cannot be reclaimed cannot be mined, then I am willing to give those regulations for reclamation a chance. Because I know that the committee chairman, the distinguished gentleman from Arizona (Mr. UDALL) is very much concerned about this problem, and because I respect his judgment, I recommend that we give close and careful attention to the implementation of this section over the next few years. If it adequately protects against further damage, then we need not completely prohibit steep slope mining. If it does not work, then this body should demand that the law be amended to prohibit such mining. I thank Mr. UDALL for his assistance in clarifying the contents of the legislation and the intent of the committee.

H3737 Mr. UDALL. Mr. Chairman, I thank the gentlewoman from Maryland (Mrs. SPELLMAN) for her concern on this subject. I might say in reply to the gentlewoman that we have taken a different approach. We have said that the test is: Can they put the land back? There will be instances of slopes of 20 degrees or more where this cannot be done because of the climate and because of the soil conditions and in other instances there can be slopes of 30 degrees to 35 degrees where this can be done.

H3737 So we have tough, rigid, mean kind of standards. We say to the operator: "Don't go in and take out the coal unless you can show us you can put the land back."

H3737 I visited one slope in Pennsylvania where there is a small operator who has less than 25 employees and very few pieces of equipment but who is one of the best in the business. He was operating on a 30 degrees slope and, when finished, there were grass, trees, and good soil.

{3738} So, if they can put it back, then they can go in and get the coal out. If they cannot do that, then they should not be able to go in there.

3738 So, as I say, we take a different approach.

3738 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

3738 Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. WHALEN).

3738 (Mr. WHALEN ask and was given permission to revise and extend his remarks.)

3738 Mr. WHALEN. Mr. Chairman, today we are considering H.R. 2, the Surface Mining Control and Reclamation Act. As a cosponsor of this bill, I would like to take this opportunity to discuss the need for the legislation and to urge my colleagues to support it without adding weakening amendments.

3738 President Carter's energy message last week made it clear that our Nation must increase its production and dependence on coal in the coming years. This resource represents over 90 percent of our total hydrocarbon energy reserve. Yet, in 1973, coal comprised only 18 percent of the Nation's energy supply. Petroleum and natural gas combined to produce approximately 77 percent of that demand. Since 1973, two of the major factors contributing to the decreased use of coal - the low prices of natural gas and imported crude oil - have changed drastically. Through the year 2000, coal will become an important source of fuel for the Nation.

3738 However, surface coal mining involves the degradation of vast tracts of land. It has increased the acidity of lakes and rivers, altered drainage patterns, and reduced water supplies. It has destroyed prime hardwood forests and wildlife habitats, degraded productive farmland, and contributed to recurrent landslides.

3738 With some exceptions, there has been little effort on the part of coal operators to restore these areas. Although some 34 States have enacted laws regulating surface coal mining, these have proven to be generally ineffective in bringing about the necessary reclamation of these lands. Most States are not inclined to impose tough standards on their own industries and put local businesses at a competitive disadvantage. Thus, State laws vary greatly in stringency and enforcement, and some States enjoy an unfair competitive advantage by allowing poorly regulated strip mining to continue.

3738 Unless we act now, prospects for improved land reclamation in the future are dim. A report issued by the Soil Conservation Service concerning the status of disturbed lands indicates that -

3738 The present concerns about energy, combined with the knowledge about our huge coal reserves will make it quite likely that the annual rate of land disturbance will be even greater . . .

3738 H.R. 2 addresses this environmental issue by establishing minimum, uniform Federal regulations for coal production and reclamation. The bill requires mining companies to regard the

land to its approximate original contour and to meet reasonable standards regarding the restoration of water supplies. Of course these requirements will not eliminate environmental disturbances. They will, however, insure that each State makes at least a minimum effort to reclaim mined land. It is hoped that State regulatory authorities will strengthen the provisions and require additional measures to meet local conditions.

3738 The expense of reclamation efforts required by H.R. 2 will not be prohibitive to the coal industry. A review of available data on profits of coal companies and coal operating companies reveals a tremendous increase in profits. Bituminous coal prices rose over 50 percent between 1969 and 1971, according to a report issued by the National Coal Association. Federal Power Commission figures show an almost 100 percent increase in coal prices paid by utilities between 1973 and 1974. These increases cannot be fully explained by increases in the cost of production, for unit labor cost increases are of much smaller magnitude than price increases. Employment and output since 1967 have remained relatively constant. Thus, price increases have been translated into profits.

3738 Industry spokesmen have indicated that reclamation costs are economically acceptable. The cost of advanced reclamation techniques is small compared to the market value of coal - only 3 to 9 percent of the price of coal at the mine. A report presented by the Continental Oil Co., the Nation's second largest producer of coal, states that -

3738 * * * even taking the largest of these reclamation costs would add only two to three percent to the average residential electric bill.

3738 The Committee on Interior and Insular Affairs reports that -

3738 The industry can absorb any increased costs of reclamation consistent with the standards of the Act.

3738 Thus, the requirements of H.R. 2 will not create an economic burden for the coal industry.

3738 The current energy crisis painfully illustrates that we as a Nation cannot afford to waste any of our resources. In an effort to excavate our coal reserves, we cannot, and need not, exploit our land and water assets. Our efforts to increase coal production must be accompanied by action to insure the constructive, longterm use of our valuable land and water reserves. In view of this fact,

and in light of the economic feasibility of reclamation efforts, I urge my colleagues to support H.R. 2.

3738 Mr. BAUMAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. MICHEL) the majority whip.

3738 (Mr. MICHEL asked and was given permission to revise and extend his remarks.)

3738 Mr. MICHEL. Mr. Chairman, I favor the principles of conservation and environmental concern underlying H.R. 2, the Surface Mining Control and Reclamation Act of 1977.

3738 Federal minimum standards for strip mining it seems to me are necessary and desirable. A total of 38 States have already recognized the merit and need for mining regulation and sound reclamation programs. In my home State of Illinois the dual goals of environmental protection and greater coal recovery are being balanced effectively. The results overall have been good. Good for the people of Illinois and good for the country.

3738 The key word here is balance. Out of need, we have had to put a very high priority on energy resources. Out of concern for the quality of life of future generations, we have had to put a very high priority on the natural environment from which we draw our energy.

3738 At the Federal level, it is absolutely essential that we maintain that delicate balance. We cannot have it both ways. We cannot have all the coal we need and at the same time have the kind of "absolutely pure" environment that special-interest groups demand.

3738 The task of the Congress is to write legislation that caters neither to the interests of the coal industry or the absolutist environmentalists but, instead, to the interests of the American people. H.R. 2, in its present form, has a number of defects which are not in the best interests of all the people.

3738 Specifically, it is overburdened with the kind of bureaucratic redtape which could threaten all that the bill is designed to achieve. I am concerned that provisions of the bill usurp the State's primary responsibility for the regulation of mining and reclamation activities. This legislation should foster and encourage a partnership in which the Federal Government provides assistance, funding and expertise, but not, I repeat not, a string of endless executive and administrative rules and regulations.

3738 H.R. 2 also contains a provision that would allow litigation at all stages of the permit process thereby opening up any operator to costly and time-consuming legal harrassment. Our society simply cannot afford this kind of obstructionism when the stakes are so high.

3738 In general terms, however, H.R. 2 is founded on the sound and justifiable concept that we can extract the minerals from the Earth and preserve the beauty and productivity of the natural environment at the same time. I applaud that concept.

3738 As I said there are some provisions of H.R. 2 which fly in the face of that concept and I hope we can weed out those undesirable elements before taking final action on this bill.

3738 There is one other concern I have, and that has to do with the proposal or amendment that would place a 5-year moratorium on the stripmining of coal on prime agricultural land. Such a moratorium could literally wipe out coal production in some parts of the country. A moratorium would be senseless, destructive and totally unjustifiable. Contrary to one line of thought, there is little a 5-year moratorium can teach us about the actual damage done to the productivity of prime agricultural land as a result of mining operations. We do know that with proper reclamation procedures, good farmland can be returned to productive use. We are making progress with reclamation because of public recognition that reclamation is necessary and highly beneficial. But to slap an arbitrary moratorium on mining operations to dramatize environmental concerns is ridiculous, especially at a time when our precious coal reserves are of equal importance to the well-being of our society.

{3739} } Mr. BAUMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Utah (Mr. MARRIOTT).

3739 (Mr. MARRIOTT asked and was given permission to revise and extend his remarks.)

3739 Mr. MARRIOTT. Mr. Chairman, I rise in opposition to H.R. 2, not that I am against every provision of the bill, because I think there are some very good provisions, and I am convinced that a uniform national guideline is necessary to support a national energy policy.

3739 But there are four areas in this bill which I find unacceptable, and I believe they would have

an adverse effect on the production of coal, which is necessary to achieve energy independence by 1985.

3739 First is the surface owners' consent provision. I am in favor of protecting the rights of surface owners. If their rights are not protected, there is little value in owning property.

3739 But the problem here is that the subsurface is owned by all of the people, and coal is essential, and surface owners should not have veto power over the subsurface, especially when they knew at the time they purchased the land that they only owned the surface rights.

3739 It is estimated that by giving them veto power, we could lose up to 8 1/2 billion tons of coal.

3739 H.R. 2 does not equitably solve this problem. If it can be established that substantial reserves exist and that a reasonable level of production can be achieved, the subsurface must be made accessible through a process of fair negotiations, a fair price, a reclamation program, and a reimbursement for any future crop losses, which the existing bill does not even attempt to establish.

3739 Second, the alluvial valley floors and hydrologics provision is indeed important to protect our water supply, to protect possible farmlands, to avoid toxic mine drainage.

3739 There needs to be more flexibility. Too many areas are being restricted which need not be restricted and that have no real water problems.

3739 The definition of alluvial valley floors is questionable, and even members of the committee and their legal counsels are hard pressed to define what is and what is not an alluvial valley.

3739 In Utah we could lose up to 50 million tons of coal production in one area because of this ambiguous definition.

3739 As a general rule much of the bill contains ambiguous language. For example, in section 510(b)(5)(B), it states: "not adversely affect the quantity or quality of water." What does "adversely affect" mean? Who is to judge what adversely affects one area and not another?

3739 Third, I believe the reclamation fee has not been well thought out nor correctly calculated.

The bill calls for a fee of 35 cents a ton for strip-mined coal and 15 cents a ton for underground coal. And the money goes to abandoned and orphaned lands, most of which are in the East, when most of the future coal reserves are in the West.

3739 And if that is not enough, the Secretary of Interior can determine where the money goes, and completely avoid the West, if in his discretion it seems advisable.

3739 We are all aware that there are thousands of acres of land and miles of streams that have been left damaged by strip mining. We know that lack of reclamation requirements has caused problems. But the fact is that the fee is grossly too high. It is only fair and equitable that the fee not be excessive. It should only be the amount required to adequately reclaim these abandoned lands in a reasonable manner. And it is further equitable that at least 50 percent of the funds be retained by the States who produced the coal.

3739 Fourth, and finally, the biggest question that should concern us all is whether this bill will increase coal production or decrease production. And I believe it is fairly accurate to assume, based on the various studies made, that this bill would reduce the production of coal and increase unemployment.

3739 The ICF study, which cost us \$2 00,000, said very plainly that in Appalachia the loss in 1978 could exceed 54 million tons, and the surface owners consent provision could make as much as 8 1/2 billion tons of known coal reserves unaccessible, and that the alluvial valley floor provision could remove 211 million tons from production, and in so doing eliminate thousands of jobs.

3739 I will not make an issue of the fact that the ICF study was tampered with to lessen its impact, but as long as the possibility exists of less production, and the study says it does, we should not move ahead with this bill unless that situation is corrected.

3739 Therefore, I urge the defeat of H.R. 2 at this time in hopes that we can come up with a bill which will fairly address these problems.

3739 Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. KREBS), a member of the committee.

3739 (Mr. KREBS asked and was given permission to revise and extend his remarks.)

3739 Mr. KREBS. Mr. Chairman, it is rather difficult in 2 minutes to cover a subject as comprehensive as the one before us. I would like, however, to pay particular tribute as I stand here to the distinguished chairman of this committee. It has been said by some speakers who preceded me that this legislation has been before us on a number of occasions before. This is indeed factual. If it had not been for the tenacity, for the fairness, and for the constant attempts to achieve a reasonable balance in this legislation by the distinguished chairman of this committee, generations to follow would have asked with much justification how we could have permitted a situation to exist for so long that this legislation finally will cure.

3739 We are, indeed, on the dawn of a new era. No longer will we be able to waste our limited energy resources as we have been accustomed to in the past. I think the timing of this legislation is, indeed, perfect. It comes on the heels of the President's address only about 8 days ago when he beseeched this Congress and, indeed, the Nation to start on the new era, to which I have alluded. I think this legislation represents a first step in this new approach to our energy problems. I think we would be deluding ourselves if we assume for only 1 minute that the conversion to coal from the other energy sources that we have been accustomed to is going to be easy. There are still some very serious environmental impacts that will result from the utilization of coal even with the adoption of this legislation, but I appreciate the work of our chairman and the work of those who have made this legislation possible.

3739 Mr. Chairman, I urge all of the Members to vote in favor of this legislation.

3739 Mr. UDALL. I yield 1 minute to the gentleman from Louisiana (Mr. HUCKABY).

3739 Mr. HUCKABY. Mr. Chairman, I rise in support of H.R. 2. I think it is significant that Members of this body should realize that the coal output of this Nation has not significantly expanded in the last 3 years and we should ask why, for the demands have been going up in the past and they are going to go up astronomically in the next 3 years and in the next 10 years.

3739 Why have they not expanded? It is because a cloud of mystery has been hanging over the industry as to what will happen and what rules they will have to live by and what they will be required to do. Industry has not expanded its commitment to the surface mining industry.

3739 I have worked many long hours with representatives from industry in helping to get amendments to this bill that would make it more acceptable to them.

3739 I commend our distinguished chairman. He has had a very open mind and certainly he is devoted to producing an energy policy for this country but he has given great concessions and I think on the whole we have a balanced bill here.

3739 Mr. UDALL. I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

3739 (Mr. VENTO asked and was given permission to revise and extend his remarks.)

3739 Mr. VENTO. Mr. Chairman, I rise in strong support of H.R. 2. We think it deserves the strong support of this body. H.R. 2 represents a cogent response to what our energy needs are in this century and what our energy needs are in the seventies and eighties just ahead.

3739 I commend the gentleman from Arizona (Mr. UDALL) for his devotion to this issue.

3739 The bill provides minimum standards where they do not exist today and translates into specific actions a solid framework within which coal can be mined and utilized. It establishes realistic mechanisms for reviewing of coal mining and strip mining.

{h3740} } It requires the coal mining ventures to state in black and white what they are going to do in pursuit of mining this resource. It sets down a plan for utilization of the resource now and continued utilization of the land once the strip mining has occurred.

h3740 Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CARR).

h3740 (Mr. CARR asked and was given permission to revise and extend his remarks.)

h3740 Mr. CARR. Mr. Chairman, I feel I may make the chairman seem like a flaming moderate because I think he has been only too fair.

h3740 With only 10 percent of our coal reserves being strip mineable coal it seems we could be far tougher on strip mining and not harm the coal mining industry or our energy policy of increased coal production at all.

h3740 In the future I hope the committee will not let its interest in strip mining die. I hope we will have to come back in future years as we gain experience with this act with tougher amendments.

h3740 I would like to make one further condemning observation about the bill. It is a poorly written bill. I feel sorry, frankly, for the small coal operator who will have to wade through the unreadable language of this bill. We will need to give time and attention to cleaning up the language in this bill so as to give the people who mine the coal fair, readable notice of what is required of them.

h3740 Section 501 of the bill states in part: "Such regulations, which shall be concise and written in plain, understandable language shall be promulgated and published. . . ." It is too bad that the bill itself does not take its own advice. The regulations that will be drafted to implement this bill will necessarily be only as "concise", "plain" and "understandable" as the congressional language under which they are promulgated.

h3740 Mr. BAUMAN. Mr. Speaker. I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

h3740 (Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

h3740 Mr. LAGOMARSINO. Mr. Chairman. I have the greatest respect for the opponents of this measure and for many of their arguments in opposition. For many of the same reasons that they oppose this bill I support it. They say it will cause delay and expense and result in less coal mining.

h3740 I think we need a national standard applicable to all lands to provide a level of certainty that the industry can rely on in making the decisions that will have to be made. We will have to have investments of millions of dollars to mine coal if we are going to achieve any energy policy at all.

h3740 Earlier in the debate mention was made of support of this legislation by Mr. Schlesinger, our energy Secretary. I would like to quote one paragraph from his letter:

h3740 Years of controversy over this legislation have increased the uncertainties facing the coal industry and the prospects for relying on more coal in this country. One particular reason I am eager

to see the bill pass is, finally to create a sense of certainty about the rules by which coal strip mining can take place.

h3740 I submit that while adjustments may have to be made to this legislation in the future, it is time, we got on with it and enact this lone overdue bill.

h3740 Mr. BAUMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. WAMPLER).

h3740 (Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

h3740 Mr. WAMPLER. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

h3740 I commend the gentleman from Michigan (Mr. CARR) for his rather candid observation and appraisal of that section of this bill which deals with issuing of permits. The distinguished chairman of the Committee on the Interior and Insular Affairs in his appearance before the Rules Committee seeking a rule on this legislation acknowledged that it is an administrative nightmare and loosely written.

h3740 This bill, if it becomes law, is going to be a bonanza for lawyers because, quite frankly, it is going to precipitate an unlimited number of lawsuits in trying to determine what the committee meant.

h3740 Also, I think it is going to add needlessly to the cost of production of coal. Unfortunately, those small operators that have limited resources simply will not be able to follow the procedures that have been vaguely written into the bill.

h3740 The distinguished chairman of the Committee on the Interior stated earlier that if this bill becomes law it will not result in unemployment but, in fact, will result in increased employment. This is a rather interesting argument and it seems to me one has to strain his sense of reasoning to come to that conclusion. It certainly smacks of what the so-called ICF report concludes, and I refer respectfully to the minority views in the committee report. I would refer the chairman of the Committee on the Interior and others to the testimony before the committee, when the Commissioner of Employment of the Commonwealth of Virginia, when the Director of the Department of Taxation who studied this bill very carefully, concluded, in fact, that it would result in substantial

unemployment in the Commonwealth of Virginia and would result in rather substantial loss of revenue to the Commonwealth of Virginia because of reduced production and because of loss of severance tax in the localities where coal is mined.

h3740 It just seems to me this bill puts into proper perspective the question: Is this Congress finally going to come to its sense and realize there are very few things that are absolute in this world? We are going to have to decide what our economic goals are in this country and particularly as it pertains to our ability to achieve energy independence and selfsufficiency on the one hand and what are achievable environmental goals on the other.

h3740 Quite candidly, in the bill before us we have not reached that goal of reasonableness and compromise. Adopting legislation like this, which is legislative overkill, and environmental extremism, is not the answer to the problem. As I indicated in my remarks in the discussion on the rule, it seems to me it is the height of inconsistency for the President of the United States to propose, on the one hand, that we increase the production of coal in this country by two-thirds by the year 1985, and then on the other hand to tell us he favors legislation like this, which unquestionably will make the production of coal more difficult and costly in this country.

h3740 Mr. BAUMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

h3740 (Mr. REGULA asked and was given permission to revise and extend his remarks.)

h3740 Mr. REGULA. Mr. Chairman, I think it is important that we get this legislation passed. Many have said that this will stifle production. In fact, I think this will add to production, because we will, at least, establish the rules. We have to keep in mind that those who are contemplating opening coalfields need to know what kind of equipment to buy. Equipment decisions are affected by the kind of reclamation standards that will be applicable; so that by getting a Federal law to resolve this issue we insure there will be standards that people can measure the proposed mining operation by and, therefore, go forward in opening up new mining operations throughout this Nation, as well as expending the ones now in operation.

h3740 Second, I would like to say that the reclamation standards in the bill are good. They come up to the Ohio law. We have had excellent success with our law, as has been the case in the State of

Pennsylvania.

h3740 I am somewhat concerned about some of the redtape involved in getting applications filed as provided in this bill. I would hope that the Members of the conference committee, will give some thought to reducing the redtape. I say that because I have a concern that the smaller operators may be forced out of business by the impact of this bill. I think it is very important that we keep the small operators in business, because they provide the competitive edge that will result in lower prices for the consumer.

h3740 I think also that this brings the States in the Nation to an equalization in terms of the reclamation standards and removes the environmental competitive advantages of States that do not meet the standards such as required by Ohio.

h3740 I do hope that the committee will also look at section 508, paragraph (2) subsection (B), which speaks to the language of the capability of the land which reads as follows:

h3740 (B) the capability of the land prior to any mining based on topography, vegetative cover, and, if applicable, a soil survey prepared pursuant to section 507(b)(16); and

h3740 This language in my judgment is ambiguous and needs a more precise standard.

h3740 The sections on cost sharing with the Soil Conservation Service are important to successful reclamation.

{h3741} Likewise the abandoned mine reclamation fund provisions allowing a return to the States of up to 50 percent of the severance fees collected is a step in the right direction.

h3741 I testified before the committee urging a direct set off for State severance taxes to stimulate State efforts in reclamation. I hope if this bill passes that the conference committee will have an opportunity to enhance the State efforts in reclaiming abandoned mined lands.

h3741 Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL).

h3741 (Mr. RAHALL asked and was given permission to revise and extend his remarks.)

h3741 Mr. RAHALL. Mr. Chairman, first I want to commend the chairman of the Committee on

Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL) for his hard and diligent work on this bill for the past 4 or 5 years. I have enjoyed my work with the committee and with my distinguished colleagues, some of whom represent coal mining districts and some of whom do not. I appreciate the fact that the gentleman from Michigan (Mr. CARR) and the gentleman from North Carolina (Mr. GUDGER) came to the State of West Virginia and viewed surface mining as we do it under West Virginia laws, and as we will do it now under H.R. 2.

h3741 H.R. 2, in my opinion, establishes the minimum national guidelines that are necessary for bringing many of the neighboring States around West Virginia up to the tough standards under which we have been living. H.R. 2 establishes these minimum national guidelines at the same time it provides for reclamation of previously mined lands. The unfair competitive disadvantage coal producers in my State have faced over recent years, I believe, will be eliminated by the passage of this bill.

h3741 With regard to the concern I originally had for the small operator, I think the chairman and the members of the committee have been very reasonable and have taken this concern in mind in drafting this bill, in both the subcommittee and the full committee. There is 10 percent of the reclamation fund set aside for the small operator, one who produces 100,000 tons of coal or less per year, to help him meet some of these application requirements in H.R. 2.

h3741 In considering the law recently passed by the West Virginia Legislature, West Virginia has laws now on the books that are as stringent as H.R. 2. H.R. 2 takes this into consideration. It provides that States that do have tough laws, as stringent or more stringent than the Federal law, the responsibility will rest with the State.

h3741 I would like to take this opportunity to thank Chairman UDALL for visiting the State of West Virginia at my request so that the committee could observe the technique of the West Virginia reclamation program required by our State, and I would also like to commend the committee for its endeavors over the past 4 years in developing this legislation so that all States would be covered by national guidelines. The pictures of surface mining in West Virginia as included in the committee report on pages 98, 99, and 102 beautifully demonstrate the excellent job coal producers in West Virginia have done in returning land to approximate original contour.

h3741 Although West Virginia has a good law on reclamation procedures, I am well aware that many other coal-producing States have weak regulations on strip mining and therefore have an unfair advantage over coal producers in West Virginia.

h3741 Therefore, I will support this legislation because the purpose of this bill is to establish minimum national guidelines for regulating surface coal mining reclamation and surface impacts of underground mines, and it will encourage States to regulate mining in accordance with such standards and will establish a program for the reclamation of previously mined lands. Further, States will retain the right of enforcement and regulation when their laws are as tough or tougher than H.R. 2.

h3741 The State of West Virginia has already taken steps to insure that they are in compliance with H.R. 2 when it is passed and signed by the President.

h3741 The House of Delegates passed an amendment which will put the State of West Virginia in compliance with H.R. 2, therefore, there should be no Federal intervention in West Virginia as it relates to enforcement of surface mining regulations. In addition this amendment also eliminates all objections to the coal industry from an environmental standpoint because West Virginia will be in compliance with the Federal law.

h3741 In light of what has happened in West Virginia and other coal mining States, in recent weeks this legislation will provide the necessary laws and regulations to control and prevent spoil from inundating communities and disrupting lives.

h3741 H.R. 2 will protect the Nation's environment, while still providing the country with a much needed energy source, coal. This legislation will not conflict with President Carter's energy goal of increasing coal production by two-thirds.

h3741 Mr. BAUMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. SYMMS).

h3741 (Mr. SYMMS asked and was given permission to revise and extend his remarks.)

h3741 Mr. SYMMS. Mr. Chairman, in 2 minutes I can hardly begin to scratch the surface on the reasons why the Members of this House should vote against this bill today, but I would only point out that perhaps 20 years ago, or even 10 years ago, there might have been a need for strip mining

legislation, but I would say that all of the sincere goals the people had, which were noble at the time, and are still noble, have been achieved over the present time.

h3741 I mentioned earlier during debate on the rule that a joint resolution was passed by the 44th Legislature of the State of Wyoming, a State that has a great deal of our coal. The State of Wyoming points out that pursuant to Wyoming statutes and other statutes, it has entered into a cooperative agreement with the U.S. Department of the Interior to provide that Wyoming will be principally responsible for the administration and enforcement of strip coal mining operations in the Federal coal leases. What this is saying is that we already have adequate protection for lands of the United States of America.

h3741 One of the primary reasons that this legislation is passing now is just to please the vanity of some of those who very sincerely have worked for the passage of this legislation, but I think most of the achievements have been accomplished.

h3741 The gentleman from Louisiana (Mr. HUCKABY) mentioned that coal production has not gone up, and I know that our good chairman makes the point that once this bill is passed, production will boom. I had the president of a large mining corporation tell me that they were not going to start mining coal with his big corporation until they knew exactly what the ground rules were. That makes the chairman's argument, but what we are doing is playing into the hands of the giant corporations in this country and cutting out the little guys, making it difficult for small people to get in and produce energy - that is not what I think is in the best interests of the country, particularly the consumers of energy.

h3741 I would say tonight that if this legislation passes, the celebrations will be held in Riyadh, Benghazi, Tripoli, Baghdad, Kuwait, Venezuela, the United Arab Emirates, and many other oil people will all be elated. They will say, "The Americans did it again; they are making it possible for us to raise prices on oil."

h3741 The CHAIRMAN. The time of the gentleman from Idaho has expired.

h3741 Mr. BAUMAN. I yield the gentleman 2 additional minutes.

h3741 Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

h3741 Mr. SYMMS. I yield to the gentleman from Oklahoma.

h3741 Mr. EDWARDS of Oklahoma. Mr. Chairman, I think the House is now following, if we pass this bill, a very consistent policy against energy production. We have created on the one hand an Ad Hoc Energy Committee. What we now appear to be doing is acting as an antienergy committee.

h3741 Mr. SYMMS. I thank the gentleman for his comments. I would just say, who is going to pay for this increased coal production and all this increased menagerie of restrictions?

h3741 It will be the consumers of electrical energy in this country. We are going to literally drive the price up, stop the small operators, put the coal production in the hands of a few giant corporations who have batteries of lawyers. And, as the minority views pointed out - I think the idea came originally from the gentleman from Maryland (Mr. BAUMAN) - this legislation is an energy-short citizen's nightmare, a bureaucrat's and a lawyer's dream. That is all this legislation is. I urge the defeat of the legislation, and I hope we have an opportunity later on in the day to show some of the reasons why the Members who vote against this will be voting for commonsense and a better environment for the people of this country, instead of for this ill-advised piece of legislation which will literally dim the lights of America.

{H} 3742 Mr. BAUMAN. Mr. Chairman, I yield myself such time as I may consume.

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

H Mr. BAUMAN. Mr. Chairman, I have listened very carefully throughout the munificent period of 60 minutes which we were granted by the Committee on Rules, and I have yet to hear one factual refutation of the presentation we made earlier, based on Government documents, which shows that this bill will not only increase the cost to consumers, it will significantly decrease the production of coal at a time when we are supposed to be increasing it, according to the President.

H I honestly believe this is a triumph of environmental extremism not only over national needs but over simple logic.

H If that is what the Congress wants to do, the American people will undoubtedly remember at some point in the future who has the responsibility for the damage the bill will do. They should be

reminded that this bill will make utility rates highly expensive.

H I hope the amending process provides a dose of sanity to this legislation. But I must confess that I find that doubtful.

H Mr. UDALL. Mr. Chairman, I yield the remaining time to the gentleman from Ohio (Mr. SEIBERLING).

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

H Mr. SEIBERLING. Mr. Chairman, it seems like old times to be down here in the well debating the strip-mining bill again. Four times this House has, by overwhelming vote - in one case, only three short of overriding a veto - voted for a bill very, very similar to this one, except that this one has eliminated a lot of the problems that were brought up with respect to some of the earlier ones.

H This is a brilliant committee report. All you have to do, if you want to see refutations of some of the charges that have been made on the other side, is to read the report. It is one of the finest committee reports. I have ever seen in my years in Congress. This committee, in reporting out this bill, and the chairman, in shepherding it through, can count this a magnificent achievement. It is a well-written, well-conceived bill.

H I would like to make a few specific points in refutation of some of the charges of the opponents. First of all, strip mining will remain under control of the States, so long as they meet the basic environmental standards in this bill. There is no question about that. That is the scheme of the bill.

H The second point is that such standards are already in effect in several States and, in some cases, such as Pennsylvania, have been for over a decade. In those States, strip mining not only continues, but it is prospering.

H If the Members want to see the figures, they can look on page 72 of the committee report and they will see that production is continuing there, even though the mining operators in those States are competing with other States which have very weak standards. If those operators can compete and still do the things that this bill says should be done to restore the land on steep slopes in mountain areas, et cetera, then certainly those in other States can compete too.

H It is rather interesting that in some of the States, such as West Virginia and Kentucky, they have since tightened up their laws to impose standards comparable to those in this bill.

H So hundreds of operators are continuing successfully to comply with those standards and stay in business. If you want to see further proof as to what they are doing, look at the pictures on pages 98 through 102 of the report.

H Of course, constituents of the gentleman from Virginia (Mr. WAMPLER) who own and operate mining companies do not want this bill because they have to comply only with very weak standards. They want to go on competing with that advantage over coal operators from other States. I ask the Members, is that the way to get an intelligent land policy law?

H We heard a lot of talk about unemployment and production losses today and also at the time President Ford vetoed the previous bill, which was very similar to this bill except much tougher. He tried to justify his veto with estimates showing projected production and job losses.

H On the 15th of this month the GAO came out with an analysis of those claims. I have a copy here. It says that several methodological flaws existed in the administration's analysis, that unemployment was possibly overstated, and that there was no documentation as to the impact of existing State reclamation laws. It said that some of the production loss figures were based on a hurriedly conducted and undocumented telephone survey. Others were based on subjective engineering estimates with little or no documentation. Mr. Chairman, I invite the Members to read this GAO report.

H The committee made a strenuous effort to streamline procedures, as suggested by the gentleman from Ohio (Mr. REGULA), to provide refined definitions and flexibility, and, indeed, to meet every constructive suggestion. Because we now have a President who has said he would sign the bill, we received constructive suggestions from the industry this time around and were able to adopt many of them and still protect the land and its population.

H Now we have heard charges about locking up billions of tons of coal. On page 83 of the report it shows that the total reserve of high-grade coal in this country is 394 billion tons and the figure for low-grade reserves is 1.6 trillion tons. So when someone says that 6 billion tons from alluvial valley

floors might not be mineable under this bill, they are talking about a tiny fraction of the total coal that is available for production in this country.

H Mr. Chairman, this bill is a reasonable bill. It is one that protects the land and insures production I urge its adoption.

H Mr. McDADE. Mr. Chairman, I rise in support of H.R. 2, the Surface Mine Reclamation Act of 1977 and to urge its adoption by the House of Representatives.

H Mr. Chairman, I am certain that the Members of this Congress who have been here for the past 5 years have heard all they need to know about strip mining in this country. There is little one can add to what has been a seemingly endless discussion of the pros and cons of this bill. This bill is, in essence, similar to bills which because of congressional inaction or Presidential veto have never been enacted into law. I am confident that such will not be the case here and that we can set about the task of defining for the first time what the minimum standards should be to mine coal in this country.

H Mr. Chairman, this definition may be the strongest feature of H.R. 2 because I am certain that if we polled every Member of this House we would find objections to particular parts of the bill. Later I will offer an amendment to change what I consider to be its most unfortunate feature, the coal tax provisions of title IV. I hope the majority of Members here can support my amendment. I also earnestly hope that we will pass this bill and get on with the business of developing a national coal policy.

H This bill is an important first step in the creation of such a national policy because without it we cannot possibly proceed to meet the goals of expanding coal production set forth by the President for a 65-percent expansion in production. It has been argued that rigorous environmental standards will inhibit production. That has not been the case in Pennsylvania where after enactment of our strip mine laws and our all surface mining laws production actually went up slightly. I am confident that this will be the case nationally.

H This bill sets national standards which are more flexible than those under which we have been operating in Pennsylvania. We have proven that we can reclaim to approximate original contour, that we can reclaim lands mined on steep slopes, and that we can have a workable permit procedure

that does not bog the operator down in needless details but lets him go about the business of mining coal. I am pleased that many of the standards we set in Pennsylvania are found as models in this bill and I am pleased that the committee solicited actively such a wide range of views from Pennsylvanians.

H Mr. Chairman, I trust this bill will be the first step in getting our Nation toward the orderly development of our coal resources. It will not be an easy task. We are going to need manpower, we are going to need water, we are going to need major improvements in extraction technology to help us recover a greater percentage of the coal out of the ground. Unless the Government is willing to do these things, we are never going to maximize our coal production. I am deeply concerned that the administration's energy proposals did not specify how we are to achieve increased production. Subsequent meetings with the officials of the Interior Department and the Energy Research and Development Administration have proved equally fruitless in determining just how we are going to bring more coal on stream.

{H3743} I trust that we will soon have passed this bill for the last time and that we can move ahead to the development of our coal resources.

H3743 Mr. KASTENMEIER. Mr. Chairman, for the fourth time in four successive Congresses, the House has the opportunity to endorse a piece of legislation which will begin a national policy to deal with one of the most insidious and exploitive practices that this Nation has had to endure. The congressional battle against strip mining has been a long, hard one. During the 92d Congress, the House passed a responsible regulatory measure. However, the Senate was not able to act and that bill died with the adjournment of that Congress. In the 93d Congress, both Houses passed a bill regulating surface mining only to have it pocket-vetoed by President Ford after the Congress had adjourned. In the 94th Congress, both Houses, once again passed a regulatory bill. This measure was successfully vetoed by President Ford.

H3743 Today, we are beginning consideration of another regulatory bill, H.R. 2, which I have cosponsored. This legislation presents us with yet one more opportunity to confront the strip-mining problem which has been crying out for Federal policy direction for decades. In passing H.R. 2, we can finally begin to put a halt to the present practice of allowing the indiscriminate raping of the

land, in the name of profits, at the expense of the general welfare of the people of our Nation, at the expense of the integrity of the land, and at the expense of the quality of the waters.

H3743 H.R. 2 establishes a national policy for the regulation of the strip mining of coal and demonstrates a commitment to an environmentally acceptable method of mining surface coal deposits. This measure provides for a program of Federal and State cooperation to regulate strip mining and reclamation. The rights of surface landowners will be protected from strip mining, and an abandoned mine reclamation fund will be established to pay for the reclamation of abandoned strip-mined land. With the passage of this legislation, the Nation will be able to mine, in a responsible manner, its vast coal reserves which will enable us to meet our energy needs without destroying the land in the process.

H3743 Mr. Chairman, we have spent enough time over the past several years debating whether or not we should pass legislation regulating strip mining. We know that without regulations governing surface mining, the scars on the mountainsides and on the prairies will grow. In H.R. 2, there is the hope that the future will not be a repeat of the past. H.R. 2 contains some measure of justice for the people and the land that have been so abused by the evils of strip mining over the years. I strongly urge the House to pass H.R. 2.

H3743 Mr. McKAY. Mr. Chairman, I would like to place in the RECORD my qualified support of the Surface Mining Control and Reclamation Act of 1977, H.R. 2. I have been vitally interested in the surface mining bill for these several years it has been before the Congress. While I have never been in complete agreement with the bill, I have tried to work with the members of the House Interior and Insular Affairs Committee to improve many of its provisions.

H3743 This session I have worked with Chairman MORRIS UDALL to achieve an accommodation on the policy of surface mining in the national forest system.

H3743 Unlike most of the national forests in the eastern half of the country, there are some western national forest lands which are really not forests at all. The Forest Service administers thousands of acres of barren desert land in my State of Utah. There is no meritorious environmental need to exclude such areas from coal surface mining.

H3743 There are some 7 billion tons of potentially surface minable coal within the boundaries of

the national forest system. The present language of H.R. 2 does not allow mining of all this coal but only so much as can be mined within carefully worded guidelines and restrictions.

H3743 The starting point of the committee language is the exclusion of all surface coal mining within the national forest system. Exceptions to this no strip-mining policy are allowed only when the following prerequisites occur:

H3743 First, the lands must be situated west of the 100th meridian or the Mississippi.

H3743 Second, the land must not have significant forest cover.

H3743 Third, there can be no significant recreational, timber, economic, or other values which may be incompatible with the surface mining operations, as such values are determined by the Secretary of the Interior.

H3743 Fourth, the Secretary of Agriculture must determine that such surface mining is in compliance with:

H3743 First. The Multiple-Use Sustained-Yield Act of 1960 and its regulations:

H3743 Second. The Federal Coal Leasing Amendments Act of 1975 which requires preparation of land management plans; and

H3743 Third. The National Forest Management Act of 1976 as it requires that land management plans comply with the National Environmental Policy Act of 1969.

H3743 Lastly, the bill entirely disallows surface mining operations within the boundaries of the beautiful and coal rich Custer National Forest.

H3743 In my opinion Mr. Speaker, the present language of section 522 is a wellthought-out, carefully worded compromise of the several interests involved with surface mining in the national forests.

H3743 H.R. 2 however, is a compromise measure and inevitably it has certain provisions I oppose. Specifically, I have supported an amendment to delete the tax on coal for the mine reclamation fund. In my opinion, this tax places upon the Western coal States the burden of paying for reclamation of lands orphaned years ago in the East. A better approach would be to fund the reclamation effort from Outer Continental Shelf lease revenues which have totaled over \$3 billion

per year.

H3743 On balance, I believe that H.R. 2 is a positive step toward proper management of coal as a mineral resource. Unless H.R. 2 is substantially modified on the House floor, my present intention is to vote in favor of its passage.

H3743 Mr. FRENZEL. Mr. Chairman, in the last three sessions of Congress we have considered legislation to establish a national policy on strip mining controls. All of the measures which we have discussed have been well motivated and had commendable goals. I have voted for the bills which passed in the last two sessions. However, I believe that today's bill, H.R. 2, is the most useful and reasonable proposal yet.

H3743 The need for a national policy is obvious. We now, as of May 15, have strict regulations on mining in Federal lands along with a myriad of differing requirements for operation on 38 producing States. If we are ever to reach the President's stated goal of raising production from a current level of 650 million tons to 1 billion, we must have a national standard. This is particularly important for the 2,300 small producers spread across the country who must comply with the present mass of conflicting regulations.

H3743 A number of substantial improvements have been made in this version of the bill. The interim regulations for mining and reclamation have been simplified and more thoroughly detailed. The permit system has greater flexibility and operates on the more reasonable schedule of 5 rather than 3 years. The citizen-suit provisions have been clarified, and the portions which struck terror into the hearts of even the most environmentally conscious producers have been stricken. Mountain-top removal, under specified conditions, is now permitted. The bureaucratic bonanza, formerly lurking in the regulations for alluvial valley floors, has been altered from "adversely affect" to "not materially damage." Surface-owner protections have also been clarified and the onerous permit burdens smoothed. All in all, some very useful improvements have been made.

H3743 By citing the improvements in the bill and measuring our progress over previous proposals, I do not mean to imply that this is perfect or even great legislation. It has a number of flaws. Some of which are quite serious.

H3743 Central to its problems is the bill's basic philosophy. This bill has been described as being

"fraught with distrust." I must agree its authors impose massive congressional authority over the owners and operators, the States regulatory authorities and the Secretary of the Interior himself. Particularly representative of this "attitude" is the section dealing with violations of the regulations. If a State does not act on an unsubstantiated informant's report within 10 days, the Secretary shall, not may, send a Federal investigator to the site. This investigator may or may not have the informant with him and is himself subject to strenuous requirements. This philosophy seems to extend throughout the bill.

H3743 Three specific sections could be significantly improved. Section 601 provides for the designation of areas found to be unsuitable for the mining of minerals other than coal. This is absurd. We are not concerned here with sulfur mining in Florida or copper in Arizona. If we go beyond coal, then the ball should go back to committee. We could then draft forthright surface mining amendments to the 1872 act, rather than sniping from behind the protective skirts of the coal issue.

{H} 3744 The abandoned mine reclamation fund is a neat idea but I am not convinced that we have sufficiently narrowed the shotgun approach of yesteryear. The provisions apply to all lands which were previously mined or were affected by such mining. The objective is to provide for the "protection, construction, or enhancement of public facilities such at utilities, roads, recreation and conservation facilities, and their use." The effect is to penalize unfairly the industry in general for the sins of a few, and to authorize the construction or utilization of almost anything for which any civic group or governmental body feels a current need.

H The bill also strays from its stated intentions by creating certain standards for deep mining activities. The bill's provisions may be interpreted to require environmental inspectors underground, but it certainly states that digging will be monitored. The greatest problem faced by deep miners is in the shoring and construction of roof supports. The bill's requirement permitting no surface subsidence may rule out even the most careful of general support structures. All external evidence of the massive underground work must be eliminated. This is a tough provision and maybe worthy of passage but, again, it does not belong in a strip mining bill.

H I will vote for amendments to modify these provisions and will also support other clarifications. However, I am pleased with the progress which the committee has made in H.R. 2. I shall vote for it

and urge my colleagues to support it also.

H The CHAIRMAN pro tempore. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the reported bill as an original bill for the purpose of amendment.

H The Clerk read as follows:

H 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

H 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 1977".

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H TITLE I - STATEMENT OF FINDINGS AND POLICY

H FINDINGS

H Sec. 101. The Congress finds and declares that -

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

H (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;

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

H (d) the expansion of coal mining to meet the Nation's energy needs makes even more urgent the establishment of appropriate standards to minimize damage to the environment and to productivity of the soil and to protect the health and safety of the public;

H (e) surface mining and reclamation technology are now developed so that effective and

reaasonable 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;

H (f) 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;

H (g) surface mining and reclamation standards are essential in order to ensure that competition in interstate commerce among sellers of coal produced in different States will not be used to undermine the ability of the several States to impose and maintain adequate standards on coal mining operations within their borders;

{H} 3745 (h) there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground coal on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality;

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

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

H PURPOSES

H SEC. 102. It is the purpose of this Act to -

H (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;

H (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;

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

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

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

H (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 agricultural productivity and the Nation's need for coal as an essential source of energy;

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

H (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;

H (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;

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

H (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;

H (l) stimulate, sponsor, provided for and or supplement present programs for the conduct 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

H (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.

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

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

H There was no objection.

H Mr. UDALL. Mr. Chairman, at this time, in order to accommodate a couple of our committee members who have time problems, I ask unanimous consent that the gentleman from California (Mr. LAGOMARSINO) be permitted, out of order, to offer an amendment to title VI of the bill, on pages 332 and 333.

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

H There was no objection.

H AMENDMENT OFFERED BY MR. LAGOMARSINO

H Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

H The Clerk read as follows:

H Amendment offered by Mr. LAGOMARSINO: Line 25, page 332, through line 4, page 333 in title VI, section 601(b), delete subsection (3) and substitute the following:

H "(3) such mining operations on any Federal lands within the boundaries of any national forest would result in substantial irreversible damage to important historical or scientific values or natural systems, of more than local importance, or could unreasonably endanger human life and property."

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

H Mr. LAGOMARSINO. Mr. Chairman, the language that I seek to amend; namely, subsection

(3) of section 601(b) in title VI of this bill, relates to the designation of lands unsuitable for noncoal mining. It provides a procedure whereby the Secretary of Interior, under carefully prescribed conditions, may withdraw such lands from mining.

H Although this language has been in every version of the bill that has come before the House since 1974, with one exception, and although it has passed the House on two occasions, only recently did it arouse any excitement or opposition or concern in the committee.

H My colleague, the gentleman from Nevada (Mr. SANTINI), I think, made a very good point in committee concerning this provision. He pointed out that the language was overly broad. I agree, and I have, therefore, changed the language by the amendment in several significant ways.

H No. 1, it would restrict the application of this subsection to certain lands within national forests rather than all national lands.

H It would require the Secretary of the Interior to make a finding that mining "would" result in damage, rather than "could"; and it would require that such damage be substantial as well as irreversible.

H It also deletes references to cultural or esthetic values.

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

H Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

H Mr. UDALL. Mr. Chairman, I have studied the amendment; and it represents, in my judgment, a fair compromise of a difficult dispute between the gentleman from California (Mr. LAGOMARSINO) and the gentleman from Nevada (Mr. SANTINI), who is worried about this matter.

H Therefore, Mr. Chairman, I urge that the amendment be adopted.

H The CHAIRMAN pro tempore (Mr. BENNETT). The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

H The amendment was agreed to.

H The CHAIRMAN pro tempore. Are there amendments to title I?

H There being no amendments to title I, the Clerk will read title II.

H The Clerk read as follows:

H TITLE II - OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

H CREATION OF THE OFFICE

H 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").

H (b) The Office shall have a Director who shall report directly to the Secretary and who shall be appointed by the President, by and with the advise and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code, and such other employees as may be required. Pursuant to section 5108, title 5, and after consultation with the Secretary, a majority of members of the Civil Service Commission shall determine the necessary number of positions in general schedule employees in grade 16, 17, and 18 to perform functions of this title and shall allocate such positions to the Secretary. 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. The Office may use, on a reimbursable basis when appropriate, employees of the Department and other Federal agencies to administer the provisions of this Act, providing that no legal authority, program, or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources or regulating the health and safety of miners under provisions of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), shall be transferred to the Office.

H (c) The Secretary, acting through the Office, shall -

H (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 and reclaiming abandoned mines; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order

the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

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

{H3746} (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;

H3746 (4) administer the program for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title IV of this Act;

H3746 (5) administer the surface mining and reclamation research and demonstration project authority provided for in this Act;

H3746 (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;

H3746 (7) maintain a continuing study of surface mining and reclamation operations in the United States;

H3746 (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;

H3746 (9) assist the States in the development of State programs for surface coal mining and reclamation operations which meet the requirements of the Act and, at the same time, reflect local requirements and local environmental and agricultural conditions;

H3746 (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 under section 522;

H3746 (11) monitor all Federal and State research programs dealing with coal extraction and use and recommend to Congress the research and demonstration projects and necessary changes in

public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating adverse environmental and social impacts; and

H3746 (12) perform such other duties as may be provided by law and related to the purposes of this Act.

H3746 (d) The Director shall not use either permanently or temporarily any person charged with responsibility of inspecting coal mines under the Federal Coal Mine Health and Safety Act of 1969, unless he finds and publishes such finding in the Federal Register, that such activities would not interfere with such inspections under the 1969 Act.

H3746 (e) The Office shall be considered an independent Federal regulatory agency for the purposes of section 3502 and 3512 of title 44 of the United States Code.

H3746 (f) No employee of the Office or any other Federal employee performing any function or duty under this Act shall have a direct or indirect financial interest in underground or surface coal mining operations. Whoever knowingly violates the provisions of the above sentence shall, upon conviction, be punished by a fine of not more than \$2 ,500, or by imprisonment for not more than one year, or both. The Director shall (1) within sixty days after enactment of this Act publish regulations, in accordance with section 553 of title 5, United States Code, to establish the methods by which the provisions of this subsection will be monitored and enforced, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning their financial interests which may be affected by this subsection and (2) report to the Congress as part of the annual report submitted under section 706 on the actions taken and not taken during the preceding calendar year under this subsection.

H3746 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

H3746 The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

H3746 There was no objection.

H3746 The CHAIRMAN pro tempore. Are there any amendments to title II?

H3746 There being no amendments to title II, the Clerk read title III.

H3746 The Clerk read as follows:

H3746 TITLE III - STATE MINING AND MINERAL RESOURCES AND RESEARCH
INSTITUTES

H3746 AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

H3746 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 1978, \$300,000 for fiscal year 1979, and \$4 00,000 for each fiscal year thereafter for five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute, or center (hereinafter referred to as "institute") at one public college or university in the State which has in existence at the time of enactment of this title a school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction or which establishes such a school of mines, or division, or department subsequent to the enactment of this title and which school of mines, or division or department shall have been in existence for at least two years. The Advisory Committee on Mining and Minerals Resources Research has created by this title shall determine a college or university to have an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or minerals extraction wherein education and research in the minerals engineering fields are being carried out and wherein at least four full-time permanent faculty members are employed: Provided, That -

H3746 (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;

H3746 (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 with an eligible school ernor of the State; and

H3746 (3) where a State does not have a public college or university with an eligible school of mines, or division, or department conducting a program of substantial instruction and research in mining or mineral extraction, said advisory committee may allocate the State's allotment to one

private college or university which it determines to have an eligible school of mines, or division, or department as provided herein.

H3746 (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 or 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; the extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation, having due regard to the interrelation on the natural environment, the varying conditions and needs of the respective States, to mining and mineral resources research projects being conducted by agencies of the Federal and State governments, and other institutes.

H3746 RESEARCH FUNDS TO INSTITUTES

H3746 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 1978, 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:

H3746 (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

H3746 (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.

H3746 (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.

H3746 (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.

H3746 (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.

H3746 (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.

{H3747} FUNDING CRITERIA

H3747 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.

H3747 (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.

H3747 DUTIES OF THE SECRETARY

H3747 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.

H3747 (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.

H3747 (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 to the reason therefor.

H3747 AUTONOMY

H3747 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.

H3747 MISCELLANEOUS PROVISIONS

H3747 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.

H3747 (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.

H3747 (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: Provided, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance by appropriation Acts.

H3747 (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: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

H3747 CENTER FOR CATALOGING

H3747 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.

H3747 INTERAGENCY COOPERATION

H3747 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 -

H3747 (a) continuing review of the adequacy of the Government-wide program in mining and mineral resources research;

H3747 (b) identification and elimination of duplication and overlap between two or more agency programs;

H3747 (c) identification of technical needs in various mining and mineral resources research categories;

H3747 (d) recommendations with respect to allocation of technical effort among Federal agencies;

H3747 (e) review of technical manpower needs and findings concerning management policies to improve the quality of the Government-wide research effort; and

H3747 (f) actions to facilitate interagency communication at management levels.

H3747 ADVISORY COMMITTEE

H3747 SEC. 309. (a) The Secretary of the Interior shall appoint an Advisory Committee on Mining and Mineral Research composed of -

H3747 (1) the Director, Bureau of Mines or his delegate, with his consent;

H3747 (2) the Director of the National Science Foundation, or his delegate, with his consent;

H3747 (3) the President, National Academy of Sciences, or his delegate, with his consent;

H3747 (4) the President, National Academy of Engineering, or his delegate, with his consent;

H3747 (5) the Director, United States Geological Survey, or his delegate, with his consent; and

H3747 (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.

H3747 (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.

H3747 (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, United States Code, be fully reimbursed for travel, subsistence, and related expenses.

H3747 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

{H3748} The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

H3748 There was no objection.

H3748 The CHAIRMAN pro tempore. Are there any amendments to title III?

H3748 There being no amendments to title III, the Clerk will read title IV.

H3748 The Clerk read as follows:

H3748 TITLE IV - ABANDONED MINE RECLAMATION

H3748 ABANDONED MINE RECLAMATION FUND

H3748 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.

H3748 (b) The fund shall consist of amounts deposited in the fund, from time to time, derived from -

H3748 (1) the sale, lease, or rental of land reclaimed pursuant to this title;

H3748 (2) any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted; and

H3748 (3) the reclamation fees levied under subsection (d) of this section: Provided, That an amount not to exceed 10 per centum of such reclamation fees collected for any calendar quarter shall be reserved beginning in the first calendar year in which the fee is imposed and continuing for the remainder of that fiscal year and for the period in which such fee is imposed by law, for the purpose of section 507(c), subject to appropriation pursuant to authorization under section 712(b): Provided further, That not more than \$1 0,000,000 shall be available for such purposes.

H3748 (c) Amounts covered into the fund shall be available for the acquisition and reclamation of land under section 406, administration of the fund and enforcement and collection of the fee as specified in this section, implementation of a State program pursuant to section 404, acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 407, and for use under section 405, 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 limitations: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

H3748 (d) All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 5 per centum of the value of the coal at the mine, or 35 cents per ton, whichever is less. Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after

January 1, 1977, and ending fifteen years after the date of enactment of this Act unless extended by an Act of Congress.

H3748 (e) Together with such reclamation fee, all operators of coal mine operations shall submit a statement of the amount of coal produced during the calendar quarter, the method of coal removal and type of coal, the accuracy of which shall be sworn to by the operator and notarized.

H3748 (f) Any person, corporate officer, agent or director, on behalf of a coal mine operator, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than \$1 0,000, or by imprisonment for not more than one year, or both.

H3748 (g) Any portion of the reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from coal mine operators in any court of competent jurisdiction.

H3748 (h) Up to 50 per centum of the funds on an annual basis derived from coal production in a State or Indian reservation may be allocated to the State from which the reclamation funds are derived by the Secretary of the Interior for the implementation of an approved State reclamation program pursuant to section 404: Provided, however, That if such funds have not been expended within three years after their allocation, they shall be available for expenditure in any eligible areas as determined by the Secretary. The balance of funds collected on an annual basis may be expended in any eligible area on a priority basis pursuant to section 402 at the discretion of the Secretary. Such funds may be expended directly or by making additional grants to approved State programs pursuant to section 404.

H3748 OBJECTIVES OF FUND

H3748 SEC. 402. The primary objective for the obligation of funds is the reclamation of areas affected by previous mining; but other objectives shall reflect the following priorities in the order stated:

H3748 (a) the protection of health or safety of the public;

H3748 (b) protection of the environment from continued degradation and the conservation of land and water resources;

H3748 (c) the protection, construction, or enhancement of public facilities such as utilities, roads, recreation and conservation facilities and their use;

H3748 (d) the improvement of lands and water to a suitable condition useful in the economic and social development of the area affected; and

H3748 (e) research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques in all areas of the United States.

H3748 ELIGIBLE LANDS

H3748 SEC. 403. 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, except as provided for in section 407(c).

H3748 STATE RECLAMATION PROGRAMS

H3748 SEC. 404. (a) Each State having within its borders coal mined lands eligible for reclamation under this title, may submit to the Secretary a State Reclamation Plan and annual programs to carry out the purposes of this title.

H3748 (b) Each State Reclamation Plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of this title.

H3748 (c) On an annual basis, each State having an approved State Reclamation Plan may submit to the Secretary an application for the support of the State program and implementation of specific reclamation projects. Such annual requests shall include such information that may be requested by the Secretary including:

H3748 (1) a general description of each proposed project;

H3748 (2) a priority evaluation of each proposed project;

H3748 (3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;

H3748 (4) an estimate of the cost for each proposed project;

H3748 (5) in the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained; and

H3748 (6) an identification of lands or interest therein to be acquired and the estimated cost.

H3748 (d) The costs for each proposed project under this section shall include: actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

H3748 (e) Upon approval of State Reclamation Program by the Secretary and the surface mine regulatory program pursuant to section 503, the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to section 401(h) and which are necessary to implement the annual reclamation program as approved by the Secretary.

H3748 (f) The Secretary, through his designated agents, will monitor the progress and quality of the program.

H3748 (g) The Secretary shall require annual and other reports as may be necessary to be submitted by each State administering reclamation projects with funds provided under this title. Such reports shall include that information which the Secretary deems necessary to fulfill his responsibilities under this title.

H3748 RECLAMATION OF RURAL LANDS

H3748 SEC. 405. (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 outdoor recreation resources, and agricultural productivity of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

H3748 (b) The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water rights, resident, or tenant to be needed on the lands for which the plan was prepared. In those instances where it is determined that the water rights or water supply of a tenant, landowner, including owner of water rights, residents, or tenant have been adversely affected by a surface or underground coal mine operation which has removed or disturbed a stratum so as to significantly affect the hydrologic balance, such plan may include proposed measures to enhance water quality or quantity by means of joint action with other affected landowners, including owner of water rights, residents, or tenants in consultation with appropriate State and Federal agencies.

{H3749} (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.

H3749 (d) In return for such agreement by the landowner, including owner of water rights, resident, or tenant the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate and in the public interest for carrying out the land use and conservation treatment set forth in the agreement. Grants made under this section, depending on the income-producing potential of the land after reclaiming, shall provide up to 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred and twenty acres of land occupied by such owner including water rights

owners, resident, or tenant, or on not more than one hundred and twenty acres of land which has been purchased jointly by such landowners including water rights owners, residents, or tenants under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where where he determines that (1) the main benefits to be derived from the project are related to improving off-site water quality, off-site esthetic values, or other off-site benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program.

H3749 (e) The Secretary of Agriculture may terminate any agreement with a landowner including water rights owners, operator, or occupier by mutual agreement if the Secretary of Agriculture determines that such termination would be in the public interest, and may agree to such modification of agreements previously entered into hereunder as he deems desirable to carry out the purposes of this section or to facilitate the practical administration of the program authorized herein.

H3749 (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.

H3749 (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.

H3749 (h) In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Soil Conservation Service.

H3749 (i) Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 401(c).

H3749 ACQUISITION AND RECLAMATION OF ABANDONED AND UNRECLAIMED MINED LANDS

H3749 SEC. 406. (a) (1) The Congress declares that the reclamation and, if necessary, acquisition of any interest in land or mineral rights in order to eliminate hazards to the environment or to the health or safety of the public from mined lands, or to construct, operate, or manage reclamation facilities and projects constitutes for the purposes of this title reclamation and, if necessary, acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so reclaimed or acquired as an open space or for recreation, or to resell, if acquired, the land following completion of the reclamation facility or project.

H3749 (2) The Secretary may acquire by purchase, donation, lease or otherwise, land, or any easement, license or other 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.

H3749 (3) Within six months after the completion of any work to abate pollution caused by past coal mining operations herein contemplated on any privately owned surface property, the Secretary, or the appropriate regulatory authority pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the appropriate county courthouse office for the filing of documents in the county in which the land lies if the moneys so expended shall result in a significant increase in the property value. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land. The lien shall not exceed an amount determined, by the Secretary or appropriate regulatory authority to be the increase in the market value of the land as a result of the corrections of the conditions immediately prior to reclamation and the lien shall extend only to that portion of the premises directly involved in the work of the Secretary pursuant to

this Act.

H3749 (4) If the Secretary, or the appropriate regulatory authority pursuant to an approved State program, makes a finding of fact that (1) a mine fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations is at a stage where, in the public interest, immediate action should be taken; and (2) the owner or owners of the property upon which entry must be made to combat the mine fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations, are not known, are not readily available, or will not give permission for the Secretary, political subdivisions of the State or municipalities, their agents, employees, or contractors to enter upon such premises, then, upon giving notice by mail to the owner or owners, if known, or if not known, by posting notice upon the premises and advertising in a newspaper of general circulation in the area in which the land lies, the Secretary, political subdivision of the State or municipalities, their agents, employees, or contractors shall have a right to enter upon the premises and any other land in order to have access to the premises to combat the mine fire, refuse bank fire, stream pollution, or subsidence resulting from coal mining operations and do all things necessary and expedient to do so. Such entry shall not be construed as an act of condemnation of property or of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises entered upon shall be chargeable against such lands and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: Provided, however, That this provision is not intended to create new rights of action or eliminate existing immunities.

H3749 (5) States are encouraged as part of their approved State programs, to reclaim abandoned and unreclaimed mined lands within their boundaries and, if necessary, to acquire or to transfer such lands to the Secretary or the appropriate State regulatory authority under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value

less the State portion of the original acquisition price. Notwithstanding 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 of the purchase 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.

H3749 (6) The Secretary shall prepare specifications for the reclamation of lands to be reclaimed or acquired under this section. In preparing these specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal or State department or agency which can assist him in the development or implementation of the reclamation program required under this title.

H3749 (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.

{H3750} (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.

H3750 (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.

H3750 (10) Where lands acquired pursuant to this title are located adjacent to or within the boundaries of any unit of the National Forest System, National Park System, or National Wildlife-Refuge System, the Secretary may upon the request of the head of the Federal department or agency having jurisdiction over the unit, and after hearings described in paragraph (9) of this subsection, transfer such land if title in fee to that department or agency for administration. Such land shall thereafter be administered as part of and subject to the laws, rules, and regulations applicable to the unit.

H3750 (11) 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.

H3750 (b) (1) The Secretary is authorized to construct those public facilities that are a necessary and integral part of a reclamation project or State reclamation program meeting the objectives stated in section 402.

H3750 (2) Expenditures under this subsection shall be limited to those reclamation projects which are for public use, are located entirely on public lands, and will remain in public ownership after completion.

H3750 FILLING VOIDS AND SEALING TUNNELS

H3750 SEC. 407.(a) The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the chairman of any

tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

H3750 (b) Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be expended in the respective States or Indian reservations under the provisions of section 401(h).

H3750 (c) The Secretary may make expenditures and carry out the purposes of this section without regard to provisions of section 403 in such States or Indian reservations where requests are made by the Governor or tribal chairman and only after all reclamation with respect to abandoned coal lands or coal development impacts have been met, except for those reclamation projects relating to the protection of the public health or safety.

H3750 (d) In those instances where mine waste piles are being reworked for coal conservation purposes, the incremental costs of disposing of the wastes from such operations by filling voids and sealing tunnels may be eligible for funding providing that the disposal of these wastes meets the purposes of this section.

H3750 (e) The Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

H3750 FUND REPORT

H3750 SEC. 408. Not later than January 1, 1978, 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.

H3750 TRANSFER OF FUNDS

H3750 SEC. 409. 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.

H3750 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

H3750 The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

H3750 There was no objection.

H3750 AMENDMENT OFFERED BY MR. STEERS

H3750 Mr. STEERS. Mr. Chairman, I offer an amendment.

H3750 The Clerk read as follows:

H3750 Amendment offered by Mr. STEERS: Page 208, line 20, amend title IV, section 403 to read:

H3750 ELIGIBLE LANDS AND WATER

H3750 SEC. 403. Lands and water eligible for reclamation or drainage abatement 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, except as provided for in section 407(c).

H3750 (Mr. STEERS asked and was given permission to revise and extend his remarks.)

H3750 Mr. STEERS. Mr. Chairman, I am offering a clarifying amendment, I think it could be fairly said, to title IV, section 403, for the purpose of clearly authorizing expenditures of the abandoned mine reclamation fund created under title IV for abandoned mine drainage abatement projects.

H3750 Mr. Chairman, despite the language of the amendment as read, the amendment actually only adds five words to the bill. It makes clear that when the word "land" is used, it is to include water as well. Drainage from abandoned mines degrades thousands of miles of our Nation's streams, lakes, and other bodies of water.

H3750 Mr. Chairman, a 1969 report by the Appalachian Regional Commission found that approximately 10,000 miles of streams are adversely affected. In Maryland alone, the North Branch of the Potomac River - "the Nation's river" - and the mainstream of the Youghiogheny River, a proposed national wild river, both are degraded by mine drainage pollutants from abandoned coal

mines. These pollutants are acid, sediment, sulfates, and iron. The single most significant pollutant is acid.

H3750 In addition, the Susquehanna and Allegheny Rivers, and the Monongahela and Delaware River Basins have experienced similar problems from acid waters from abandoned mines.

H3750 Title IV authorizes the collection of 15 cents per ton of deep mined coal as well as 35 cents per ton of surface mined coal. Acid mine drainage is the greatest adverse environmental affect of abandoned deep mines. It seems appropriate and equitable to authorize abandoned mine drainage abatement expenditures from title IV funds.

H3750 Several States have initiated abandoned mine drainage abatement programs. This is good economics because the costs of acid drainage to industrial, municipal, and navigational water users are significant. For example, the acid corrodes equipment, requires special water treatment, and kills fish and other aquatic life. In order for State programs to be successful, Federal financial participation is required to solve this pollution problem. In addition to my State of Maryland, West Virginia, Ohio, Pennsylvania, the other States in the Appalachian Region - as well as States that are faced with the problems of abandoned mine seepage - would benefit from this proposal. No State would suffer any loss of funds due to this amendment, rather it would provide greater flexibility to State programs.

H3750 The amendment to title IV which I offer is intended to clearly establish that the restoration of waters affected by abandoned mine drainage is an objective for the obligation of title IV funds.

H3750 Maryland has strong reclamation laws, but would still benefit from this bill and this amendment according to the Maryland Secretary of the Department of Natural Resources.

H3750 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3750 Mr. STEERS. I yield to the gentleman from Arizona.

H3750 Mr. UDALL. Mr. Chairman, the intent of the reclamation program has always been not only to finance the cleaning up of the land, but the cleaning up of waters. Acid mine drainage is a very serious problem.

H3750 Mr. Chairman, the gentleman's amendment simply makes explicit what has always been

implicit in the section he refers to, and I believe the amendment ought to be adopted.

H3750 Mr. BAUMAN. Mr. Chairman, if the gentleman from Maryland would yield, do I understand that this amendment was requested by the Maryland Secretary of Natural Resources?

H3750 Mr. STEERS. Yes, it was.

{H3751} Mr. BAUMAN. We certainly would accept it.

H3751 (Mr. STEERS asked and was given permission to revise and extend his remarks.)

H3751 The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. STEERS).

H3751 The amendment was agreed to.

H3751 Mr. UDALL. Mr. Chairman, we were moving a little fast a moment ago and a member of the committee, the gentleman from Pennsylvania (Mr. MURPHY) had an amendment to title III which the gentleman had intended to offer. Would it be in order for me to ask unanimous consent that we return to title III in order that the gentleman from Pennsylvania may offer the amendment? If so, I would ask unanimous consent to do so.

H3751 The CHAIRMAN pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Arizona?

H3751 Mr. SYMMS. Mr. Chairman, reserving the right to object, and I do so for the purpose of trying to find out what this amendment is all about.

H3751 Further, while I am making my reservation of objection, I would like to ask the chairman of the committee, the gentleman from Arizona (Mr. UDALL) about title III, with respect to the State mining portion of this bill. It is my understanding that this section is not in the legislation before the other body. I understand, through personal conversation with the Secretary of the Interior that the Secretary agrees with that position, being against funding the mining schools. I was hoping that we could have it on the RECORD that this body would stand firm to retain title III.

H3751 Mr. UDALL. Mr. Chairman, if the gentleman will yield, I stand firm on title III. I would hope the gentleman from Idaho will join me on the conference committee so that we can have a real strong title III and keep this in the bill.

H3751 Mr. MURPHY of Pennsylvania. Mr. Chairman, if the gentleman from Idaho will yield, on page 201 I would add an additional paragraph, subparagraph (e) which would require the State regulatory agency to bring about a program for the certification of those persons who would use explosives in strip mining. The rationale for this being that persons who use explosives are affecting the general public, and to other users of State highways, presenting hazards and affecting the safety of the traveling public. I believe there should be some certification of those people.

H3751 Mr. SYMMS. Mr. Chairman, I object.

H3751 The CHAIRMAN pro tempore. Objection is heard.

H3751 AMENDMENT OFFERED BY MR. M'DADE

H3751 Mr. McDADE. Mr. Chairman, I offer an amendment.

H3751 The Clerk read as follows:

H3751 Amendment offered by Mr. McDADE: Page 205, strike out lines 4 through 14 and insert in lieu thereof the following new paragraph:

H3751 (3) amounts authorized to be appropriated under subsection (d) of this section: Provided, That an amount not to exceed 10 per centum of such amounts shall be reserved beginning in the first fiscal year in which such amounts are so authorized to be appropriated and continuing for the remainder of that fiscal year, for the purpose of section 507(c), subject to appropriation pursuant to authorization under section 712(b): Provided further, That not more than \$1 0,000,000 shall be available for such purposes.

H3751 Page 206, strike out line 5 and all that follows through line 18, and insert in lieu thereof the following new subsection:

H3751 (d) There are authorized to be appropriated out of the sums deposited in the Treasury of the United States as miscellaneous receipts under section 9 of the Outer Continental Shelf Lands Act such amounts as are necessary to make the amount of the fund not less than \$3 00,000,000 for the fiscal year ending September 30, 1978, and for the fiscal years 1979 and 1980. Amounts appropriated under this subsection shall remain in the fund until expended.

H3751 Page 206, line 19, strike out "Together with such reclamation fee, all" and insert in lieu thereof "All".

H3751 Page 207, strike out lines 6 through 9 and, on line 10, strike out "(h)" and insert in lieu thereof. "(g)".

H3751 Mr. McDADE (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with.

H3751 The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

H3751 Mr. BAUMAN. Mr. Chairman, reserving the right to object, I would ask the gentleman from Pennsylvania (Mr. McDADE) whether this deals with the reallocation of funds from the Outer Continental Shelf lands?

H3751 Mr. McDADE. It does.

H3751 Mr. BAUMAN. Mr. Chairman, I reserve a point of order on the amendment.

H3751 The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. McDADE) to dispense with further reading of the amendment?

H3751 There was no objection.

H3751 (Mr. McDADE asked and was given permission to revise and extend his remarks.)

H3751 Mr. McDADE. Mr. Chairman, I am offering an amendment to the abandoned mine reclamation fund which will eliminate completely the coal tax imposed by the committee bill.

H3751 My amendment will fund the reclamation trust through a direct appropriation of \$300 million in Outer Continental Shelf leasing receipts.

H3751 Mr. Chairman, it is critical to mining States like Pennsylvania that we restore orphaned lands as quickly as possible. Our landscape is degraded by burning refuse banks, our waters are polluted by acid drainage, and rural and urban dwellers alike are continually plagued by subsidence. If another alternative were not available to pay for reclamation of these abandoned mine lands I would willingly support the committee proposal. But another infinitely more desirable alternative is available - the alternative offered in my amendment.

H3751 My major objection to the tax on coal is that it places the entire burden of abandoned mine

reclamation not on the coal industry, but primarily on one class of consumers, those who utilize coal-generated electricity. I say "primarily" because there is one other consumer class who will pay this tax - those who heat their homes with coal. They are inevitably among our lowest income groups. Many elderly living on fixed incomes - and they will pay this tax twice, once for electricity and again for space heating. My amendment avoids the imposition of a new energy tax on consumers or anyone else. The committee report clearly indicated that the Federal Government has the obligation to repair the lands which fueled this Nation's industrial growth and the large thermal generating plants of the past decade. Why should consumers in States generating, electricity by coal be forced to pay for the mining practices of the past? The reclamation tax forces one class of consumers to foot the entire bill for past mistakes.

H3751 Data on electrical generation by State in 1975 indicates that 11 States rely on coal for more than 75 percent of their electricity. Eleven additional States require coal for half or more of their electricity. With the President's expressed intention of increasing coal production by 65 percent and phasing out oil and gas, electrical generation consumers in additional States will also be included in this class paying for abandoned mine reclamation. Nonetheless, this burden is not shared equitably. In 1975 there were 24 States which utilized coal for less than 25 percent of their electricity. Thirteen of these States used no coal. Consumers in these regions will not share in the cost of abandoned mine reclamation.

H3751 If anyone truly believes these taxes will compel the coal industry to pay for its past mining practices, they are sadly mistaken and unfamiliar with the industry's history. Coal producers will pass on every charge we levy to their consumers.

H3751 Mr. Chairman, we have proposals before us which would impose excise taxes on oil and gasoline. These taxes are defended in the name of conservation. Yet today the majority of the committee recommends another tax, on our Nation's most abundant fuel resources. May I remind this body that only last Congress it said 3 cents tax on a gallon of gasoline was too much. We are looking today at a proposal which will cost consumers of electricity millions of dollars in the first year it is imposed.

H3751 Average figures compiled on tons of coal burned for electricity in 1975 indicate in that

year alone consumers in my State of Pennsylvania would have paid \$9 .5 million in this new energy tax. Ohio electricity consumers: \$12.3 million; West Virginia electricity consumers: \$6 .7 million; Indiana electricity consumers: \$7.1 million; Illinois consumers: \$8 .4 million, and so on. New FPC data for 1976 indicates that coal generation of electricity increased more than 9 percent.

H3751 The committee report says the impact on the consumer will be minimal. Yet estimates prepared for my office by the Congressional Research Service based on current electricity usage indicate the cost to consumers in coal burning States may be up 1 1/2 to more than 4 times greater than the committee estimate. I submit we should not impose this tax on the consumer when there is an alternative.

H3751 Some Members have argued that OCS receipts are not the proper source for reclaiming orphaned mine lands. I disagree. There is nothing sacred about OCS receipts. Already this year the House approved increases totaling \$4 50 million for the land and water conservation fund in 1973 and 1979. Presently the balance of unearmarked OCS revenues are paid into and appropriated from General Treasury receipts for programs unrelated to our energy needs. My amendment directs a small portion of this balance into a program urgently needed to maintain our energy production. Additionally, land and water reclamation is certainly as meaningful a use of the receipts as land and water conseration.

{H} 3752 There is some concern that the OCS revenues may not actually reach their projected fiscal year 1978 level of \$3 .4 billion and that this will impact on the stability of the reclamation fund. Presently, slightly more than \$1 billion of the receipts are earmarked for land and water conservation and historic preservation. Should projected receipts drop as much as \$1 billion there would still be a balance of close to \$9 00 million, three times as much as my amendment calls for.

H Finally, utilization of OCS receipts assures a stable and maximized effort at abandoned mine reclamation. While committee report estimates are that reclamation will cost \$7 to \$1 0 billion there is significant disagreement over this estimate. Data provided by the Bureau of Mines early this year demonstrates that costs could rise to \$2 4 billion. Based on current estimates of coal production it will not be until 1981 that the coal tax revenues approach anywhere near the Bureau of Mines

estimates of funding necessary to administer an aggressive reclamation program. My amendment puts maximum usable resources to work immediately on reclamation.

H I urge the Congress to adopt my amendment and reject another tax on energy resources.

H The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. MDDADE) has expired.

H (By unanimous consent, Mr. MCDADE was allowed to proceed for 1 additional minute.)

H Mr. KAZEN. Mr. Chairman, will the gentleman yield?

H Mr. MCDADE. I yield to the gentleman from Texas.

H Mr. KAZEN. Mr. Chairman, why is it the gentleman would want to take money out of the Treasury to do this when actually it was the coal industry itself which caused these scars?

H Mr. MCDADE. It is absolutely true we had a bad ethic about coal. We are trying to cure that today in a way, I say to my friend, that uses the people's resources. This is all oil that belongs to the people, the oil on the Outer Continental Shelf, which is publicly owned land.

H Mr. DENT. Mr. Chairman, I rise in support of the amendment. I do want it to be known that Pennsylvania is going to support this legislation to the fullest because we have had the most experience of the entire country in this matter. The first reclamation bill, the first strip-mining bill was passed in my State in 1947 and I happened to be a sponsor of it.

H But we had many trials and errors. The biggest problem we have is reclamation of deep mine scars and gob piles and slag and stripping operations.

H Now stripping operations in Pennsylvania are not to be compared with the stripping operations we have at this moment and which will increase in the future in the large land areas, the large operations. We operate in an entirely different manner and Members will hear about it later on from some of the Members from Pennsylvania about how we operate. But this I want the Members to know.

H We discovered the serious problems and I believe the cost of reclamation ought to be given very serious consideration. Does anyone on the committee know how we paid for the reclamation of damages already done before we put the law into effect since the bill has been put in effect and since

the law has been the law in Pennsylvania? I will tell the Members how we have done it. We passed a bond issue of \$5 00 million in the State of Pennsylvania to pay for the land reclamation, to clean up our areas that were destroyed in the early days, because we knew that we could not possibly charge this generation of operators for the damage that was done in the past by the big operators who stripped and mined the virgin coal of Pennsylvania. We have only the smaller tracts there and it is a very difficult job to compete in that State with large mining in the newer coalfields.

H We are going to protest very bitterly at having a 15-cent tax on deep mining, for instance, and a 35-cent tax on stripping for reclamation that we have already financed by the taxpayers of Pennsylvania, in order to give our operators a chance to compete in the open market. I do not think we ought to do that. I do not believe we ought to do that. We ought to leave that in the hands of the States as far as reclamation. They ought to have the courage to tax those who are stripping their land. But as far as those who are paying for it every day in Pennsylvania already, how can we say in good conscience that Pennsylvania ought to be taxed and ought to pay into this fund for reclamation for other States?

H The first complaint that we have to work with and work against in this proposition. I think we have to realize this is a matter that takes a lot of time and study in each State how to best cope with it. Every State, you will find, will have a very different problem. There will be some similarities, but there will be enough difference that the States themselves will have to come to a conclusion how to reclaim their land.

H We have gone even further to pay for our black lung in Pennsylvania, for our occupational diseases that come out of the mines, black lung and all the diseases. We charge 27 percent of the gross payroll in that State. I want to tell this House that we believe we have the very best obtainable law with the scientific knowledge we have on what to do in coal mining, both deep and strip.

H I say to my good chairman, and I have before my eyes today the 2 1/2-inch head-line in the largest Pennsylvania paper in which the gentleman from Arizona (Mr. UDALL) is quoted as saying that Pennsylvania law is adequate for the U.S. law; so Mr. UDALL leave us alone in this task. If we are taking care of it. if we are paying it, why should we not be exempt? If they want to continue that

in the rest of the country, I have no objection. They can put it in Wyoming or Montana or whatever; but I have an objection to it applying this feature in the State of Pennsylvania, when we are paying for it already.

H I beg of this House to give consideration to the State of Pennsylvania in this matter, because we do not have that kind of mining. If we can get a 100-acre plot for stripmining, if we can get that much, that is considered a very good-sized operation. We buy it at 20 acres at a time or 15 acres at a time because of the high cost we have. We put up a \$5 ,000 bond to pay grantee reclamation. This is not a cheap operation. We do not have the large amount of money or use the kind of equipment they can use in the West. We use smaller equipment. Some operators have three trucks, one clam shell, one shovel, and one bulldozer. That is an operation in Pennsylvania.

H The CHAIRMAN pro tempore (Mr. BENNETT). Does the gentleman from Maryland insist on his reservation of a point of order?

H Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of a point of order.

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

H Mr. Chairman, there is no better Member in the Congress than the gentleman from Pennsylvania (Mr. MCDADE). The gentleman has supported us every time we have tried to get strip mining reclamation. There is a bill to reclaim the sins of the past in the State of Pennsylvania. The only question is how do we finance it. I do not have much quarrel with the gentleman's proposal. The gentleman has offered it every time we have been here and the gentleman's arguments have been vehement and persuasive to a lot of people; but we have now reached a point three times around the track where we have made a treaty between the House and the Senate on this in the way we have written it in the bill, the way we finance it with a reclamation fee, we have worked out a rather tenuous agreement between the Western and the Eastern States on how to spend it. I think the arrangement we have is a better one. We thought and others for the States of Texas and Louisiana, which furnished a lot of revenue to the OCS fund, they did not see, as the gentleman from Texas (Mr. KAZEN) said, why that fund should be prorated to those in Pennsylvania. So I hope we stay

with the bill. It has been at least three times around the track. We think it is a better proposal than the one by the gentleman from Pennsylvania (Mr. MCDADE).

H Let me say one thing with regard to what the gentleman from Pennsylvania (Mr. DENT) said a moment ago. The impression is created that Pennsylvania will not be a net gainer, the way we have written the bill. The fact is that the Appalachian States, including Pennsylvania, will get their share of funds, as well as others, when we put the fee on the mining per ton and we immediately give back to the State of Montana 50 percent of the proceeds, which means that Pennsylvania, being one of the largest coal mining States, their chunk will be a big chunk. The other 50 percent is taken by the Secretary of the Interior and put anyplace in the country where there is damage, where there is a lot of damage in the last 50 years in Appalachia, not in Montana or Wyoming where they are just getting into strip mining.

{H3753} } The old damage is in the Eastern States, so the gentleman is going to get a double dip in Pennsylvania and probably get a lot more out of this than the coal production in the State puts into it. For these reasons, I would hope that the amendment will be defeated kindly. We will smile as we do it, because JOE MCDADE is a fine fellow.

H3753 Mr. DENT. Mr. Chairman, will the gentleman yield?

H3753 Mr. UDALL. I yield to the gentleman from Pennsylvania.

H3753 Mr. DENT. I am not being a fine fellow. I just want to say to the gentleman that we have already spent hundreds of millions of dollars reclaiming those old scars. The gentleman flew over Pennsylvania, and he saw darn few old scars in Pennsylvania. So, that second dip is not what the gentleman promises it will be. He ought to return all the money to Pennsylvania, because they have done it already and are paying the bill.

H3753 Mr. UDALL. There is enough to do in Pennsylvania to keep them busy for the next 10 or 15 years with acid mine drainage, as well as old orphan lands, mine fires, mine waste bank reclamation, and subsidence. There is plenty to be done in the gentleman's great State. We want to give him some assistance. I do not care if the gentleman wants to vote for the McDade amendment. That is one way to finish it up, but the Senate is not going to take it and we run a very great risk of losing the whole reclamation program.

H3753 Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

H3753 Mr. UDALL. I yield to the gentleman from Ohio.

H3753 Mr. SEIBERLING. Mr. Chairman, I think it would be helpful if we would all look at page 76 of the committee report, which shows the status of land disrupted by coal surface mining in the United States and needing reclamation, as of January 1, 1974, by States. As to the State of Pennsylvania, it shows 159,000 acres - which is more than any other State in the United States by far. It is twice as much as Missouri, which is the second largest in terms of the amount of area disturbed.

H3753 It seems to me that Pennsylvania is going to be a net gainer in terms of this fund, as the chairman has pointed out.

H3753 I would also like to invite the Members' attention to page 81 of the committee report. What has happened to the price of coal in the last few years? In October 1973, the price of coal averaged 42 cents per 1 million Btu's - 41.9 cents, to be exact. In October 1974, it rose to 81 cents per million Btu's, or almost double. In October 1976, it was 87 cents per million Btu's.

H3753 Did the cost of mining the coal go up comparably during that period of time? No; the cost has risen less than 30 percent. What happened, as one can see from the same table, is that the price of oil has more than doubled. The price of coal rose because of increased demand and because the cost of competing energy, namely oil, rose.

H3753 The CHAIRMAN pro tempore. (Mr. BENNETT). The time of the gentleman from Arizona has expired.

H3753 (By unanimous consent Mr. UDALL was allowed to proceed for 2 additional minutes.)

H3753 Mr. DENT. Will the gentleman tell me what the price of coal is in Pennsylvania today?

H3753 Mr. SEIBERLING. I have not got that information.

H3753 Mr. DENT. It is \$13 a ton, against \$5 6 a ton a year ago. They paid five times as much for it last year. They are still mining that coal. Let us get the facts straight.

H3753 Mr. SEIBERLING. And the price is going up again, is it not?

H3753 Mr. DENT. It is on oranges in California, but what has that got to do with it?

H3753 Mr. SEIBERLING. It has a great deal to do with it, because the point I am making is that the price of coal is not being determined by the cost of production, but by supply and demand in the marketplace. The addition of the reclamation fee to the cost of producing coal is not going to come out of the consumers of coal, but out of the coal operators.

H3753 Mr. DENT. Mr. Chairman, will the gentleman yield?

H3753 Mr. UDALL. I yield.

H3753 Mr. DENT. In this economy of ours, the price always depends on demand, always; not on the cost of production.

H3753 Mr. SEIBERLING. That is precisely the point I am making.

H3753 Mr. UDALL. Mr. Chairman, I ask that the amendment be defeated.

H3753 The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MCDADE).

H3753 The question was taken; and the Chairman being in doubt, the Committee divided, and there were - ayes 22; noes 32.

H3753 Mr. MCDADE. Mr. Chairman, I demand a recorded vote.

H3753 A recorded vote was refused.

H3753 So the amendment was rejected.

H3753 The CHAIRMAN pro tempore. Are there further amendments to title IV?

H3753 AMENDMENTS OFFERED BY MR. UDALL

H3753 Mr. UDALL. Mr. Chairman, I offer two amendments to this title, and I ask unanimous consent that they may be considered en bloc.

H3753 The Clerk read as follows:

H3753 Amendments offered by Mr. UDALL: Page 207, line 12, insert "or Indian reservation" after "State".

H3753 Page 211, after line 5, add the following new subsection:

H3753 (h) As used in this section, the term "State" includes an Indian reservation.

H3753 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3753 Mr. BAUMAN. Mr. Chairman, reserving the right to object, we do not have copies of the amendments. The amendments have been fluttering down here like snow, and it would be very helpful if we could have the amendments or a shovel.

H3753 Mr. UDALL. Mr. Chairman, I thought they were distributed. I do not think there will be any conflict on them.

H3753 Mr. BAUMAN. Mr. Chairman, I am sure the gentleman will forgive any natural suspicion I have.

H3753 Mr. UDALL. It is unlike the gentleman, but I will forgive him.

H3753 Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

H3753 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3753 There was no objection.

H3753 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3753 Mr. UDALL. Mr. Chairman, under the reclamation program, a State which sets up a program to reclaim land in its own State can administer that program and receive funds out of the reclamation fund.

H3753 Mr. Chairman, a question has arisen in committee many times about how we treat Indian reservations. In most of the versions of this bill, we included Indian reservations and treated them like States so that they could have Indian reservation reclamation programs. In preparing the bill this time around, in several rewrites we left out Indian reservations. All these two amendments do is make it possible for the Indian reservation to apply and get an approved program and be treated like a State in handling the reclamation of lands in their State.

H3753 Mr. Chairman, I would ask that the amendments be adopted.

H3753 The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Arizona (Mr. UDALL).

H3753 The amendments were agreed to.

H3753 The CHAIRMAN pro tempore. Are there further amendments to title IV?

H3753 AMENDMENTS OFFERED BY MR. BAUMAN

H3753 Mr. BAUMAN. Mr. Chairman, on behalf of the gentleman from Kansas (Mr. SKUBITZ) I offer amendments to title IV, and I ask unanimous consent that they may be considered en bloc.

H3753 The Clerk read as follows:

H3753 Amendments offered by Mr. BAUMAN: Page 204, line 15 after the word "abandoned" and before the word "mine" insert the word "coal".

H3753 Page 204, line 16 after the word "abandoned" and before the word "mine" insert the word "coal".

H3753 Page 204, line 19 after the word "abandoned" and before the word "mine" insert the word "coal".

H3753 Page 208, line 3 after the word "previous" and before the beginning of the word "mining" insert the word "coal".

H3753 Page 211, line 9 after the word "reclaimed" and before the word "mined" insert the word "coal".

H3753 Page 211, line 10 after the word "unreclaimed" insert the word "coal".

{H3754} } Page 211, line 11 after the word "by" and before the word "mining" insert the word "coal".

H3754 Page 215, line 10 after the word "unreclaimed" and before the word "mined" insert the word "coal".

H3754 Page 215, line 14 after the word "from" and before the word "mined" insert the word "coal".

H3754 Page 216, line 1 after the word "surface" and before the word "mining" insert the word "coal".

H3754 Page 222, line 11 after the word "previous" and before the word "mining" insert the word "coal".

H3754 Page 222, line 18 after the word "surface" and before the word "mines" insert the word "coal".

H3754 The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from

Maryland?

H3754 There was no objection.

H3754 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3754 Mr. BAUMAN. Mr. Chairman, I am offering these amendments on behalf of the ranking minority member of the committee, the gentleman from Kansas (Mr. SKUBITZ) who, unfortunately, suffers from the worst possible malady a politician could endure, laryngitis, and he is unable to speak. And since the gentleman from Maryland is rarely speechless, I would explain to the committee that throughout these hearings the gentleman from Kansas (Mr. SKUBITZ) expressed a very strong concern about the fact that the reclamation fees that will be imposed upon coal by this bill also can be used to reclaim lands that are not scarred or in any way defiled in the past by the mining of coal but by mining other minerals. It is his feeling that we should confine the use of funds that all of the users of coal will pay for to the reclamation of coal lands alone. The net effect of these amendments is to confine the use of funds in the reclamation process for the reclamation of coal lands only.

H3754 Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

H3754 Mr. Chairman, there is some logic behind what the gentleman from Kansas (Mr. SKUBITZ) says, and I hate to oppose him. However, we have a basic treaty between the Eastern coal States and the Western coal States. This amendment would upset that arrangement.

H3754 What the gentleman from Kansas (Mr. SKUBITZ) says is "Let's not take the money we get per ton of coal and take it out and use it to repair damages done by an old gold mine or a lead mine or some other type of mine other than a coal mine."

H3754 The problem we have with that is this: As coal mining develops, much of it is going to take place in New Mexico, Arizona, Wyoming, and Colorado, in States which do not have the damage they have sustained in Pennsylvania. They do not have the history of coal mining over the last 40 or 50 years that the East has had.

H3754 So the Governors and the Congressmen from those Western States say, "Why should you tax our coal and take this money and put it where the coal damage is in Eastern States, in Appalachia?"

H3754 So we made a compromise with them. We said, "Look, in Colorado, if you have finished up reclaiming all the damages done by old coal mines - and you may have some - then you can take your 50 percent share of these funds and repair damages done by silver mines, lead mines, and other types of mines which have caused damage to your States."

H3754 Old mines represent a very real health problem and a very real safety problem in the Western States. They represent in some of our areas a drainage problem.

H3754 Mr. Chairman, this simply gives the Western States which will be contributing great sums of money to this fund an opportunity to use their funds to repair damage done by these other types of mining. We have a fairly well balanced treaty between the Eastern States and the Western States, and this amendment would upset that arrangement.

H3754 Mr. SYMMS. Mr. Chairman, will the gentleman yield?

H3754 Mr. UDALL. I yield to the gentleman from Idaho.

H3754 Mr. SYMMS. Mr. Chairman, I thank the committee chairman for yielding.

H3754 I think this is the second time today - maybe it is the second time ever - that I have agreed with the gentleman, and I compliment him for his position.

H3754 Mr. UDALL. Mr. Chairman, I thank the gentleman. If the gentleman is in agreement with me, perhaps it is possible that I should reexamine my position.

H3754 Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

H3754 Mr. UDALL. I yield to the gentleman from Colorado.

H3754 Mr. JOHNSON of Colorado. Mr. Chairman, I want to compliment the gentleman from Arizona for his statement. He has stated exactly the case with these old abandoned mines that we have in Colorado. In many cases they are contaminating our streams and our land, and we simply cannot deal with the problem.

H3754 This provision, I think, will provide some help, and I support the gentleman's position.

H3754 Mr. UDALL. Mr. Chairman, I ask that the amendment be defeated.

H3754 Mr. SKUBITZ. Mr. Chairman, I rise in support of the amendment.

H3754 Mr. Chairman, a few moments ago the gentleman from Arizona (Mr. UDALL) said that

50 percent of the reclamation fee that is raised in any State mining coal will go to that State.

H3754 Here we have a bill that allegedly is to reclaim orphaned coal lands. We are going to give 50 percent of the reclamation fee to States like Montana, which has 300 acres of orphaned coal land, and Colorado, which has 4,000 acres of orphaned coal land, and Wyoming with 3,078 acres.

H3754 After they take care of the orphaned coal lands, then they can use the funds to seal up an old gold mine, a silver mine, a copper mine, or what have you.

H3754 Unfortunately, there is a provision in this bill that also allows these States to use reclamation funds not only to seal gold mines, copper mines, and coal mines, but also - after that has been done the moneys can be used to build public facilities - schools, water plants, hospitals.

H3754 Mr. Chairman, that was not the purpose of this bill at all. The purpose of this bill is to reclaim orphaned coal lands, and that is what it ought to do and nothing else.

H3754 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3754 Mr. SKUBITZ. I yield to the gentleman from Arizona.

H3754 Mr. UDALL. Mr. Chairman, in the old bill of 2 years ago at one point we had the use of that money for public facilities, but that provision is not in here. We cannot use it for schools and things like that.

H3754 Mr. SKUBITZ. Mr. Chairman, if my colleague will turn to page 208, he will find this language in the statement of objectives:

H3754 The primary objective for the obligation of funds is the reclamation of areas affected by previous mining; but other objectives shall reflect the following priorities in the order stated:

H3754 In part (c) "the protection, construction, or enhancement of public facilities such as utilities, roads, recreation and conservation facilities," and so forth.

H3754 That was the major point that was raised by my colleagues from Montana and Wyoming. The argued that these extra moneys were needed to build facilities in the towns rather than charge it to the taxpayers that might move into the area. The rest of us all paid taxes when industry moved to our area and public utilities were needed. We were happy to do so. We voted bonds to take care of

our schools, we voted bonds to take care of recreation, and to build hospitals.

H3754 Mr. Chairman, the coal we are talking about here is not actually the coal of the Western States. It is coal that belongs to the Federal Government. You own it, I own it, the 210 million people in this country own it.

H3754 Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

H3754 (Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

H3754 Mr. SEIBERLING. Mr. Chairman, I would like to respond to what the gentleman from Kansas (Mr. SKUBITZ) has said. First of all, while that is the list of priorities as set forth on page 208 of the bill, those are priorities that relate to reclamation operations and the land that is being reclaimed and that money cannot be used generally for such facilities anywhere in the State.

H3754 Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

H3754 Mr. SEIBERLING. I yield to the gentleman from Kansas.

H3754 Mr. SKUBITZ. Mr. Chairman, that is correct. That is the very point I am making. What I wanted to do was to make it very clear that the gentlemen from the West felt they needed this land in order to take care of facilities around the area where coal was being mined.

H3754 I submit that that is not the purpose of a reclamation tax, to take care of orphaned lands, lands that were mined in the past.

{H3755} Mr. Chairman, I urge adoption of the amendment.

H3755 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3755 Mr. SEIBERLING. I yield to the gentleman from Arizona.

H3755 Mr. UDALL. Mr. Chairman, I want to make the legislative history very clear.

H3755 In this bill in the last Congress we did have a provision at one point that would have given the Western States money for schools and hospitals and for general impact purposes.

H3755 Mr. Chairman, this is on page 170 of the report. We received this through the Pennsylvania procedure. If Pennsylvania reclaims an area, it makes a park out of it. If one wants to

have rest facilities in that park or roads to get to that park or picnic facilities relating to that park, then it can be supported for that purpose.

H3755 Mr. Chairman, if the language is not clear in the bill itself, I am sure it can be cleared up in conference.

H3755 The purpose or the intention of the committee is as stated on page 170 of the analysis.

H3755 Mr. SEIBERLING. Mr. Chairman, I would like to point out further that on page 221, at the bottom of the page, subsection (b) (1), it reads as follows:

H3755 The Secretary is authorized to construct those public facilities that are a necessary and integral part of a reclamation project or State reclamation program meeting the objectives stated in section 402.

H3755 It then goes on to say, on page 222:

H3755 Expenditures under this subsection shall be limited to those reclamation projects which are for public use, are located entirely on public lands, and will remain in public ownership after completion.

H3755 Mr. Chairman, I was 100 percent in accord with the effort of the gentleman from Kansas, which succeeded in taking out the provisions that allowed any of this money to be used for development on private lands. I completely agreed with him. But suppose they go ahead and reclaim an area abandoned, and then they want to put a lake, a park, or a picnic ground or something on it. It does not make any sense to say one cannot use the money for the purpose of putting in a lake or a gravel road or some launching ramps or a picnic site on the reclaimed land.

H3755 What we are saying is that after they regrade and reclaim these areas, if someone wants to put in these additional things they must be on public land. And in so doing the priorities set forth in the section 402 have to be followed.

H3755 Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

H3755 Mr. SEIBERLING. I yield to the gentleman from Kansas.

H3755 Mr. SKUBITZ. Mr. Chairman, what does public ownership mean? Is it not this land that is owned by the city or by the county or by the State? Are those not public lands? Then if they are,

cannot someone build a public utility on public land when actually the land belongs to the city or some other branch of government?

H3755 Mr. SEIBERLING. To answer the question, I am not the chairman of the committee, but as the author of a great deal of this section, I would say that if a public utility owns a piece of land, that makes it private land, as far as the intent of this bill is concerned.

H3755 We are talking about reclaimed land that was injured by mining and that is still in the ownership of a government agency such as a local government, a school district, the State, or a park district.

H3755 Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, when I submitted this amendment in committee, the amendment was accepted. Something happened between 4 o'clock in the afternoon and noon the next day, when it was taken out.

H3755 Mr. SEIBERLING. I accepted the gentleman's original amendment, but when we took a close look at its language, we found that it went a lot further than many of those that supported it thought. The evidence of that is the very fact that the committee voted to make the changes the gentleman from Kansas is referring to.

H3755 Mr. MARLENEE. Mr. Chairman, I move to strike the requisite number of words.

H3755 (Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

H3755 [Mr. MARLENEE addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3755 Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

H3755 (Mr. WAMPLER asked and was given permission to revise and extend his remarks.)

H3755 Mr. SKUBITZ. Mr. Chairman, will the gentleman from Virginia yield?

H3755 Mr. WAMPLER. I yield to the gentleman from Kansas.

H3755 Mr. SKUBITZ. Mr. Chairman, let me say to my colleague, Mr. MARLENEE that I certainly agree that we ought to reclaim the old gold mines and do the other things he mentions but the cost should not be charged to the reclamation fund. The reclamation fees should be used to

reclaim orphaned coal lands and nothing else.

H3755 Mr. WAMPLER. Mr. Chairman, I wonder if I might have the attention of the chairman of the legislative committee, the gentleman from Arizona (Mr. UDALL).

H3755 Mr. Chairman, do I understand under the present language of the bill, not including the proposed amendment by the gentleman from Kansas (Mr. SKUBITZ), can we use funds from the reclamation trust fund to build a school? Specifically, can we or can we not?

H3755 Mr. UDALL. If the gentleman will yield, the answer is no.

H3755 Mr. SYMMS. Mr. Chairman, will the gentleman yield?

H3755 Mr. WAMPLER. I yield to the gentleman from Idaho.

H3755 Mr. SYMMS. Mr. Chairman, I would like to have the attention of the gentleman from Arizona (Mr. UDALL).

H3755 Is it not true that the people who use the electricity produced from this coal are going to be paying the reclamation fund?

H3755 Further, is it not true that the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) would preclude, then, the reclamation of some mines, say, the gold mines, or some other kind of mines that existed 100 years ago when they were not actually taking care of the land and when some of the past mistakes occurred, but yet today, people, whether they have a coal mine or not, are still paying for it, and the gentleman is going to preclude them from reclaiming their coal mines.

H3755 Mr. UDALL. Mr. Chairman, if the gentleman will yield, if the State of Kansas has any damaged or orphaned coal mines, 50 percent of the fund is available to the Secretary to help the areas that need it whether Kansas or anywhere else. Kansas gets its 50 percent share of the coal produced in Kansas. The other 50 percent is used wherever it is needed.

H3755 Mr. SYMMS. Or the Secretary can put it in a State where they mine no coal.

H3755 Mr. UDALL. The remaining 50 percent can be used by the Secretary wherever it is needed for coal mine damage, wherever the need is the greatest in the country. The only thing the 50 percent State's share can be used in that State for is not to the damaged gold mines and the copper mines but on the orphaned coal mines; the others can be assisted only after everything has been done

for the coal mine areas.

H3755 Mr. SYMMS. I thank the gentleman for yielding.

H3755 Mr. SEIBERLING. Mr. Chairman, if the gentleman would yield, I would like to say I believe the gentleman is thinking in terms of an earlier version of this bill, because we finally, in an effort to meet some of the objections the gentleman from Kansas raised, changed this language to say that up to 50 percent can be used by the State in which the coal is mined and the Secretary, in his discretion, may allocate the rest, which I think provides an additional degree of flexibility. He is worried, and I know what he is going to say. I am going to save his voice. He is worried that when we get to the Senate, the Senators will demand that we restore the language that says "50 percent" instead of "up to 50 percent." But let me assure the gentleman I will resist that as strongly as I can because I do not have any of these abandoned gold mines, unfortunately, in my part of the country. We have a lot of abandoned strip mines and coal lands. But, nevertheless, we have to recognize that some concession must be made to the States from which the coal on which the fee is paid is going to come.

H3755 Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

H3755 Mr. WAMPLER. I yield to the gentleman from Kansas.

H3755 Mr. SKUBITZ. I thank the gentleman for yielding.

H3755 The gentleman has stated my fear. My fear is when we first got this bill before our committee, it said that the Secretary "shall," and then when we struck the whole thing, it was supported by the committee. The next day the gentleman came forward with a little word "may" and said we will change "shall" to "may." There is not any doubt in my mind that when we get over to the Senate side we will find when we look at the fellows who will be the conferees over there, the one little word "may" will be changed back to "shall."

{H3756} } Mr. SEIBERLING. If the gentleman from Virginia will yield, I will say that if I am a conferee, I will assure the gentleman from Kansas that I will hold out as long as I can to keep the House position.

H3756 Mr. SKUBITZ. The gentleman from Ohio and I are not going to have much weight in that conference, I assure him.

H3756 Mr. MICHEL. Mr. Chairman, I move to strike the last word in order to ask a few questions of the distinguished chairman of the committee. The gentleman from Arizona is well aware that many of the States now have a severance tax upon coal. I would like to inquire of the gentleman as to whether or not the committee gave consideration to the possibility of encouraging the States to engage in this kind of tax? Within our own State of Illinois, for example, we could make the determination as to what to do with the moneys received as far as reclaiming old mines, or even restoration of current ones being mined.

H3756 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3756 Mr. MICHEL. I yield to the gentleman from Arizona.

H3756 Mr. UDALL. I thank the gentleman for yielding.

H3756 We debated this up and down and around several times, and we finally came to the conclusion that we ought to have one uniform national tax or fee, and that half of that ought to be available to the States that produced the coal so they will get back some of the benefit from carrying the burden. In addition, we did not think we should take a position one way or the other on a State severance tax. Montana has a 30-percent tax. They are bearing a very heavy burden out there, and they want the rest of the country to help them with the adjustment to becoming a major coalproducing area. If Illinois wants to do that, fine; Illinois will have that right.

H3756 Mr. MICHEL. If that is the case, then that which remains within the State, the balance of 50 percent, as I understand, would go to what - a national trust fund?

H3756 Mr. UDALL. If the gentleman will yield, it is a national fund, and the Secretary looks around the country and says, Here is the worst damage, and here is what we are going to do.

H3756 Mr. MICHEL. That is what I want to ask the chairman. Who makes the specific determination of which State's damage is worse than another's, and how can they be absolutely sure that some of our really blighted mines of 15 or 20 years ago will qualify for their fair share of the national trust fund?

H3756 Mr. UDALL. The Secretary, I assume, would do like they do with the land and water conservation fund in the gentleman's State. Each community or area that thinks they have bad

damage comes in with an application, and someone in the Secretary's office will sit down, just as the gentleman's Governor will have to, and look over the list of applications and say, Here are the worst ones.

H3756 We suggest in the bill and in the report that those that involve public health and safety ought to come first. If there is an old mine bank burning and endangering a town, we will go there before we repair something which is merely unsightly or unseemly. The health and safety areas would probably take top priority.

H3756 Mr. MICHEL. Would the gentleman be willing to venture beyond that primary criterion of health and safety as to what would be the next area of priority?

H3756 Mr. UDALL. If the gentleman will yield, production. If we can get agricultural production out of land, I suppose that would come next.

H3756 Mr. MICHEL. I am happy to hear the chairman say that, because the land to which I obviously refer is the black, rich soil of the flat Illinois prairie which was at one time producing corn, soybeans, and the like. Frankly, under today's new technology, I believe this land could very well be restored to some measure of productivity and at the same time eliminate that unseemly, blighted, scarred land.

H3756 The guidance for the Secretary is in the list of priorities on page 208 of the bill. The gentleman from Kansas (Mr. SKUBITZ) referred to these earlier. It begins with the protection of health or safety of the public, and then it goes down the line.

H3756 Mr. MICHEL. I thank the gentleman for his response.

H3756 The CHAIRMAN. The question is on the amendments offered by the gentleman from Maryland (Mr. BAUMAN).

H3756 The amendments were rejected.

H3756 AMENDMENT OFFERED BY MR. BAUMAN

H3756 Mr. BAUMAN. Mr. Chairman, I have a second amendment which the gentleman from Kansas would like to offer and which I offer in his behalf.

H3756 The Clerk read as follows:

H3756 Amendment offered by Mr. BAUMAN: Section 401(h), page 207, line 10 delete the whole subsection through line 24 on page 207.

H3756 Mr. BAUMAN. Mr. Chairman, again in deference to the ranking minority member of the committee, this amendment is offered on his behalf. It has two objectives.

H3756 One is to allow the Secretary of Interior the maximum discretion in the allocation of this fund. Two, it is to insure that the intent of this committee to make these funds available to all of the States which have orphaned lands occasioned by previous coal mining not be frustrated merely by changing the word "may" to shall.

H3756 Section 401(h) as it is presently written does not add any additional dimension for the Western States. As a matter of fact, this provision could be construed to limit the Secretary of the Interior's authority to expend more than 50 percent of the revenues raised in that State for this purpose.

H3756 It would appear the only practical utility of section 401(h) is to give "lip service" to a mystical agreement with the western Representatives of a previous Congress. Much of the initial support for a surface strip mining bill was attracted primarily to enable us to respond to the need to reclaim the orphaned lands. If we allow these funds to be diluted by using them for other than coal mine orphaned lands or for other than reclamation purposes, we are not keeping faith with the intention of some of our early supporters.

H3756 [Mr. UDALL addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3756 Mr. SKUBITZ. Mr. Chairman, I rise in support of the amendment.

H3756 The gentleman from Arizona (Mr. UDALL) has pretty well stated the case regarding the amendment. What I am attempting to accomplish by striking the 50-percent clause is to let the Secretary determine how much to spend in reclaiming orphan lands and get them back into production and onto the tax rolls.

H3756 I am glad to see, however, that we are learning a lot about legislation and the legislative processes of this place. It is, in many ways, simply a case of wheeling and dealing rather than a logical analysis to determine if legislation is in the best interest of the country or proper thing to do. We decide to do this thing for this guy in order to get his vote and we do that thing for that guy to get his vote, rather than just doing what is in the best interest of the taxpayer. I suggest that is a sad state

of affairs.

H3756 (Mr. SKUBITZ asked and was given permission to revise and extend his remarks.)

H3756 Mr. SKUBITZ. Mr. Chairman, it has been estimated that over a 10-year period - 1977-78 - the total fees collected under section 401(d) of this bill will approach \$3 billion. However, General Graves with the Corps of Engineers, in testimony on February 16 of this year, stated that -

H3756 The cost for measures to correct the problem on the 800,000 acres of derelict land distributed by surface and subsurface mines for coal, clay, phosphates, iron and copper is about \$1.5 billion.

H3756 The estimates cited in the committee report are in the range of \$9 to \$1 5 billion. There seems to be some discrepancies here that should be explained to the Members of this body. Unless, of course, this range of a \$1 5 billion is meant to include reclamation of lands occasioned by other than the coal mining industry.

H3756 Now, with regard to my major objection to this bill - the distribution of the reclamation fee. Section 401(h) relating to abandoned mine reclamation funds states, I quote from page 207, that up to 50 percent "of the funds on an annual basis derived from coal production in a State or Indian reservation may be allocated to the State from which the reclamation funds are derived by the Secretary of the Interior for the implementation of an approved State reclamation program pursuant to section 404."

H3756 Now, let me point out that the bill carries the word that up to 50 percent may be allocated - I want to point out to the committee that the bill initially provided that it "shall be allocated." Make no mistake, when we get into conference, the word "may" will be changed to "shall" making it mandatory for the Secretary to spend 50 percent in the States where the coal is mined.

{H3757} Now, the fact is, most of this coal is going to be mined in the Western States - and those States have little or no "orphan lands" to be reclaimed. So, why should 50 percent of the reclamation fee be returned to that area? Well, this bill takes care of that in section 401(c) of the bill, page 205, we find that the funds can be used for - and I quote "for the * * * filling of voids and sealing of tunnels, shafts, and entryways under section 407."

H3757 Section 407 applies not only to abandoned coal mines but to any kind of tunnel or shaft, whether it be an abandoned gold, abandoned silver mine, or any kind of mine. I submit that the reclamation fees collected from coal should be used to reclaim "orphan coal lands" and not for any other purpose. Let those industries responsible for unreclaimed, shafts, tunnels, and so forth, take care of their own misdeeds. Do not place this burden on the coal industry. But that is not all, when you turn to section 402, page 208, titled "objectives of fund" we find this and I quote: "The primary objective for the obligation of funds is the reclamation of areas affected by previous mining, but other objectives shall reflect the following priorities in the order stated: One of the objectives stated pertinent to this section is: "The protection, construction, or enhancement of public facilities, such as utilities, roads, recreation and conservation facilities and their use."

H3757 Why should a reclamation fee on coal to reclaim abandoned coal land be used to build utilities, roads, and recreation at the expense of the consumer of coal?

H3757 It is not right. It is not fair. It is not just. It is not reasonable.

H3757 I question that 50 percent of these reclamation funds be directed to the Western States which have a minimal number of orphaned coal mined lands. I would like to point out to my colleagues the following areas in which the Federal Treasury is already providing considerable revenues for these States:

H3757 First. Public Law 94-579 titled "Federal Land Policy and Management Act of 1976," provides that -

H3757 All money received from sales, bonuses, royalties, and rental of the public lands . . . shall be paid into the Treasury of the United States; 50 percent thereof shall be paid by the secretary each year to the State . . . within the boundaries of which the leased land or deposits are or were located; said moneys paid to any such States . . . to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased . . . for (I) planning (II) construction and maintenance of public facilities, and (III) provisions of public service; . . .

H3757 In addition, States which qualify for the "payment in lieu of tax law" - Public Law 94-565

- now receive additional payments from the Federal Treasury based on the mere existence of public laws within their boundaries that are not on the State tax rolls.

H3757 Finally, several States currently impose a significant per ton severance tax up to 30 percent of the value of the coal produced. This severance tax, coupled with Federal payments in lieu of taxes, and the increased payments from royalty receipts, should be more than adequate to cure social and economic problems in addition to degradation of lands caused by mineral industries other than coal.

H3757 Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

H3757 Mr. SKUBITZ. I yield to the gentleman from Massachusetts.

H3757 Mr. TSONGAS. Mr. Chairman, I would like to say to the gentleman, if I am understanding correctly, this amendment is the one that passed in the committee not the previous one. I supported the gentleman in his amendment. I think it made sense.

H3757 The purpose of this title is reclamation. If we put the 50-percent more money in, that does not meet it, we subvert the title. I can understand the chairman having to compromise to try to get a bill through, but I think conceptually the gentleman is correct.

H3757 PERFECTING AMENDMENT OFFERED BY MR. MARRIOTT

H3757 Mr. MARRIOTT. Mr. Chairman, I offer a perfecting amendment.

H3757 The Clerk read as follows:

H3757 Perfecting amendment offered by Mr. MARRIOTT: Page 207, line 12, strike out "may be allocated" and insert in lieu thereof "shall be allocated".

H3757 [Mr. MARRIOTT addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3757 The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Utah (Mr. MARRIOTT).

H3757 The question was taken; and on a division (demanded by Mr. MARRIOTT) there were - ayes 15; noes 3.

H3757 So the perfecting amendment was agreed to.

H3757 The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

H3757 The question was taken; and on a division (demanded by Mr. BAUMAN) there were -
ayes 9; noes 24.

H3757 So the amendment was rejected.

H3757 [Mr. SIMON addressed the Committee. His remarks will appear hereafter in the
Extensions of Remarks.]

H3757 Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

H3757 (Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

H3757 Mr. MILLER of Ohio. Mr. Chairman, I would like to ask the gentleman from Arizona whether this legislation affects in any way the rights of owners of mineral rights situated below land owned by the Federal Government. In other words, where someone has sold to the Federal Government the surface rights, but yet they have retained the mineral rights, will they be allowed to strip mine? Will they be allowed to drill?

H3757 Mr. UDALL. Mr. Chairman, we attempt to deal, in title VII of this bill, with this whole problem of surface-owner consent. There are cases in which private people own the land and the Government owns the coal underneath. There may be a few instances where that is reversed, where the Government owns the land and the private people own the coal underneath.

H3757 Mr. MILLER of Ohio. There are instances of such.

H3757 Mr. UDALL. We do not attempt to deal with that situation. We have no constitutional right to upset the rights of private property owners in that regard. I do not believe we can take away from the private coal owners whatever rights they now have against the U.S. Government. We discussed this problem on the bottom of page 95 of the report. We do not attempt to set aside State law or to cover it in any way. We leave it where the States law leaves it today, in effect.

H3757 Mr. MILLER of Ohio. I thank the gentleman from Arizona for his reassurance that the legislation in question does not in any way purport to adversely affect the rights of those who have retained or retain mineral rights on Federal lands.

H3757 The CHAIRMAN. Are there further amendments to title IV? If not, the Clerk will read title V.

H3757 The Clerk read as follows:

H3757 TITLE V - CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE
COAL MINING

H3757 ENVIRONMENTAL PROTECTION STANDARDS

H3757 SEC. 501. (a) Not later than the end of the ninety-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering an interim regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and conforming to the provisions set out in section 502(c) of this Act. The issuance of the interim regulation shall be deemed not to be a major Federal action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Such regulations, which shall be concise and written in plain, understandable language shall not be promulgated and published by the Secretary until he has -

H3757 (A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than thirty days after such publication to submit written comments thereon;

H3757 (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 et seq.); and

H3757 (C) held at least one public hearing on the proposed regulations.

H3757 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.

{H3758} (b) Not later than one year after the 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 performance standards based on and

conforming to 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 the title. The Secretary shall promulgate these regulations, which shall be concise and written in plain, understandable language in accordance with the procedures in section 501(a).

H3758 INLLIAL REGULATORY PROCEDURES

H3758 SEC. 502.(a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

H3758 (b) All surface coal mining operations on lands on which such operations are regulated by a State which commence operations pursuant to a permit issued on or after six months from the date of enactment of this Act shall comply, and such permits shall contain terms requiring compliance with, the provisions set out in subsection (a) of this section.

H3758 (c) On and after nine months from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the provisions of subsections 515(b) (2), 515(b) (3), 515(b) (5), 515(b) (10), 515(b) (11), 515(b) (13), 515(b) (15), 515(b) (19), and 515(d) of this Act or, where a coal surface mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau of a gently rolling contour with no highwalls remaining, such operation shall comply with the requirements of section 515(c) (4) and (5) without regard to the requirements of section 515(b) (3) or 515(d) (2) and (3), with respect to lands from which overburden and the coal seam being mined have not been removed.

H3758 (d) Not later than two months following the approval of a State program pursuant to section 503 or the implementation of a Federal program pursuant to section 504 all operators of surface coal mines in expectation of operating such mines after the expiration of eight months from the 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 shall cover those lands to be mined after the expiration of eight months from the approval of a State program or the implementation of a

Federal program. The regulatory authority shall process such applications and grant or deny a permit within eight months after the date of approval of the State program or the implementation of the Federal program, but in no case later than forty-two months from the date of enactment of this Act.

H3758 (e) Within six months after the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State as surface coal mining operations are required to comply with the provisions of this Act, 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 -

H3758 (1) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of subsection (b) and (c) 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 person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

H3758 (2) provide that the State regulatory agency responsible for regulating reclamation of surface coal mining operations shall be given notice prior to any Federal inspection and such State agency shall file with the Secretary and with a designated Federal office centrally located in the county or area in which the inspected surface coal mine is located copies of inspection reports made; and

H3758 (3) provide that moneys authorized by section 712 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the State for conducting those inspections in which the standards of this Act are enforced and for the administration of this section.

H3758 For the purposes of this section, the term "Federal inspector" means personnel trained in

the provisions of this Act, the regulations promulgated hereunder, and the accepted physical and scientific means of inspecting surface coal mining operations of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or 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.

H3758 (f) 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 under the reclamation standards set forth in section 502 of this Act.

H3758 STATE PROGRAMS

H3758 SEC. 503. (a) Each State in which there are or may be conducted surface coal mining operations on non-Federal lands, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in sections 521 and 523 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 -

H3758 (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;

H3758 (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, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

H3758 (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 regulations issued under section 501(b) of this Act;

H3758 (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:

H3758 (5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 522 provided that the designation of Federal lands unsuitable for mining shall be performed exclusively by the Secretary after consultation with the State; and

H3758 (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.

H3758 (b) The Secretary shall not approve any State program submitted under this section until he has -

H3758 (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;

H3758 (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 et seq.):

H3758 (3) held at least one public hearing on the State program within the State; and

H3758 (4) found that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

H3758 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.

H3758 (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.

H3758 (d) For the purposes of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall preclude assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of section 503 and 504 shall again be fully applicable.

H3758 FEDERAL PROGRAMS

H3758 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-four months after the date of enactment of this Act if such State -

{H3759} (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;

H3759 (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

H3759 (3) fails to implement, enforce or maintain its approved State program as provided for in this Act.

H3759 If State compliance with clause (1) of this subsection requires an act of the State legislature, the Secretary may extend the period of 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 section 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.

H3759 (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.

H3759 (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.

H3759 (d) Permits issued pursuant to a previously 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.

H3759 (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.

H3759 (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.

H3759 (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.

H3759 (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.

H3759 STATE LAWS

H3759 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.

H3759 (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.

H3759 (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.

H3759 PERMITS

H3759 SEC. 506. (a) No later than eight months from the approval of a State program pursuant to section 503 or the implementation of a Federal program pursuant to section 504, no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 502 of this Act, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this Act, but the initial administrative decision has not been rendered.

H3759 (b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years: Provided, That if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the regulatory authority may grant a permit for such longer term. 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

H3759 (c) A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years of the issuance of the permit: Provided, That the regulatory authority may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee: Provided further, That in the case of a coal lease issued

under the Federal Mineral Leasing Act, as amended, extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act: Provided further, That with respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

H3759 (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 fulfillment of the public notice requirements of section 513 and public hearing when requested by any person having an interest which is or may be adversely affected unless it is established that and written findings by the regulatory authority are made that -

H3759 (A) the terms and conditions of the existing permit are not being satisfactorily met:

H3759 (B) the present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this Act and the approved State plan pursuant to this Act;

H3759 (C) the renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

H3759 (D) the operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 509; and

H3759 (E) the operator has not provided the additional revised or updated information required by the regulatory authority and necessary to carry out the purposes of this Act.

H3759 Burden of proof on the approved issues (A-E) shall be on the opponents of renewal Prior to the approval of any extension of permit, the regulatory authority shall provide notice to the appropriate public authorities.

H3759 (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 renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this Act: Provided, however, That if the surface coal mining operations authorized by a permit issued pursuant to this Act were not subject to the standards contained in section 510(b) (5) (A) and (B) by reason of complying with the proviso of section 510 (b) (5), then the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to section 508 shall not be subject to the standards contained in section 510(b) (5) (A) and (B).

{H3760} (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.

H3760 APPLICATION REQUIREMENTS

H3760 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 may be less than but shall not exceed 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.

H3760 (b) The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things -

H3760 (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; and (E) the operator if he is a person different from the applicant;

H3760 (2) the names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

H3760 (3) a statement identifying each surface coal mining permits in the United States currently held by the applicant and each pending application;

H3760 (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 persons performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record 10 per centum or more of any class of voting 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 within the five-year period preceding the date of submission of the application;

H3760 (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 in the five-year period prior to the date of submission of the application 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;

H3760 (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;

H3760 (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;

H3760 (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;

H3760 (9) the applicant shall file with the regulatory authority on an accurate map or plan, to an appropriate scale, clearly showing the land to be affected as of the date of the application, the area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations. The applicant must have the legal right to enter and commence surface mining on substantially all of the area within the boundaries of the proposed permit; however, as additional legal rights are acquired for tracts within the permit, they must be submitted to the

regulatory authority prior to issuance of a permit for mining upon those tracts;

H3760 (10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

H3760 (11) a determination of the probable 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 and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability;

H3760 (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;

H3760 (13) accurate maps 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 1:25,000 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;

H3760 (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 geologist (when specific subsurface information is deemed essential and requested by the regulatory authority), or other qualified personnel at State universities showing pertinent elevation and location of test borings or core samplings and depicting the following information; the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality, the nature and thickness of any coal or rider seam above the

coal seam to be mined; 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;

H3760 (15) a statement of the result 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 except that the provisions of this paragraph 15 may be waived by the regulatory authority by a written determination that such requirements are unnecessary with respect to a specific application;

H3760 (16) for those lands in the permit application which a reconnaissance inspection suggests may be of prime agricultural land classification, a soil survey shall be made or obtained according to standards established by the Secretary of Agriculture in order to confirm the exact location of such prime agricultural lands, if any; and

H3760 (17) information pertaining to coal seams, test borings, core samplings, or soil samples 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.

H3760 (c) If the regulatory authority finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 100,000 tons, the determination of

probable hydrologic consequences required by subsection (b) (11) and the statement of the result of test borings or core samplings required by subsection (b) (15) of this section shall, upon the written request of the operator be performed by a qualified public or private laboratory designated by the regulatory authority and the cost of the preparation of such determination and statement shall be assumed by the regulatory authority.

H3760 (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.

H3760 (e) Each applicatn 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 that access to information contained in the application pursuant to subsection (b) (16) of this section shall only be available as specified in that subsection.

H3760 (f) 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 including use of explosives and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

{H3761} (g) Each applicant for a surface coal mining and reclamation permit shall submit to the regulatory authority as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of section 515(b) (15).

H3761 RECLAMATION PLAN REQUIREMENT

H3761 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:

H3761 (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:

H3761 (2) the condition of the land to be covered by the permit prior to any mining including:

H3761 (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;

H3761 (B) the capability of the land prior to any mining based on topography, vegetative cover, and, if applicable, a soil survey prepared pursuant to section 507(b) (16); and

H3761 (C) the productivity of the land prior to mining, including appropriate classification as prime agricultural lands as well as the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management;

H3761 (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;

H3761 (4) a detailed description of how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

H3761 (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; a plan for soil reconstruction, replacement, and stabilization pursuant to the performance standards in section 515(b) (7) (A), (B), (C), and (D), for those food, forage, and forest lands identified in section 515(b) (7); an estimate of the cost per acre of the reclamation,

including a statement as to how the permittee plans to comply with each of the requirements set out in section 515;

H3761 (6) the consideration which has been given to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future can be minimized;

H3761 (7) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

H3761 (8) the consideration which has been given to making the surface mining and reclamation operations consistent with applicable State and local land use plans and zoning requirements;

H3761 (9) 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;

H3761 (10) the results of test boring 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 which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record;

H3761 (11) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of (A) the quantity and quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process, and (B) the rights of present users to such water;

H3761 (12) a detailed description of steps taken to minimize adverse impacts on renewable resources; and

H3761 (13) such other requirements as the regulatory authority shall prescribe by regulations.

H3761 (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.

H3761 PERFORMANCE BONDS

H3761 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; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture and in no case shall the bond be less than \$10,000.

H3761 (b) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for vegetation requirements in section 515.

H3761 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.

H3761 (c) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.

H3761 (d) 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.

H3761 (e) In lieu of the establishment of a bonding program, as herein set forth in this section, the Secretary may approve as part of a State or Federal program an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

H3761 PERMIT APPROVAL OR DENIAL

H3761 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, require modification of, or deny the application for a permit in a reasonable time and notify the applicant in writing. The applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the applicable State or Federal program. Within ten days after the granting of a permit, the regulatory authority shall notify the local governmental officials in the local political subdivision governmental officials 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.

H3761 (b) No permit or revision of permit application shall be approved unless the application demonstrates and the regulatory authority finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval, and made available to the applicant that -

H3761 (1) the permit application is accurate and complete and that all the requirements of this Act and the State or Federal program have been complied with;

H3761 (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;

H3761 (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 damage to hydrologic balance outside permit area;

H3761 (4) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced pursuant to section 522(a)(4)(D) or section 522(c) (unless in such an area as to which an administrative proceeding has commenced pursuant to section 522(a)(4)(D) of this Act, the operator making the permit application demonstrates that, prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

H3761 (5) the proposed surface coal mining operations, if located west of the one hundredth meridian west longitude, would -

H3761 (A) not interrupt, discontinue, or prevent farming on alluvial floors but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the regulatory authority finds that the farming that will be interrupted, discontinued, or prevented is of such small acreage as to be of negligible impact on the agricultural or livestock production within the affected alluvial valley floors, or.

{H3762} (B) not materially damage the quantity or quality of water in surface or underground water systems that supply these valley floors referred to in (A) of subsection (b)(5): Provided, That this paragraph (5) shall not apply to those surface coal mining operations located within or adjacent to alluvial valley floors which in the year preceding the enactment of this Act were engaged in the commercial production of coal, or which had obtained prior to January 4, 1977, specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors or for which substantial financial and legal commitments as determined by the Secretary had been made prior to January 4, 1977; and

H3762 (6) in cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the regulatory authority -

H3762 (A) the written consent of the surface owner to the extraction of coal by surface mining methods; or

H3762 (B) a conveyance that expressly grants the right to extract the coal by surface mining methods; or

H3762 (C) if the conveyance does not expressly grant the right to extract coal by surface mining methods, other evidence that establishes that the conveyance was intended to authorize the extraction of coal by surface mining methods, it being presumed, for the purposes of this paragraph (6) (C), that in the absence of such evidence the conveyance was intended to limit the extraction of coal to methods customarily used in the State at the time the conveyance was executed.

H3762 (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 five-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 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.

H3762 REVISION OF PERMITS

H3762 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.

H3762 (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 and 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 significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

H3762 (3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

H3762 (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.

H3762 (c) The regulatory authority may require reasonable revision or modification of the permit provisions during the term of such permit: Provided, That major revision or modification shall be subject to notice and hearing requirements established by the State or Federal program.

H3762 COAL EXPLORATION

H3762 SEC. 512. (a) Each State or Federal program for a State shall include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration regulations issued by the regulatory authority. Such regulations shall include, at a minimum, (1) the requirement that prior to conducting any exploration under this section, any person must file with the regulatory authority notice of intention to explore and such notice shall include a description of the exploration area and the anticipated period of exploration and (2) provisions for reclamation in accordance with the performance standards of section 515 of this Act of all lands distributed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

H3762 (b) Information submitted to the regulatory authority pursuant to this subsection as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area shall not be available for public examination.

H3762 (c) Any person who conducts any coal exploration activities which substantially disturb the natural land surface in violation of this section or regulations issued pursuant thereto shall be subject to the provisions of section 513.

H3762 (d) No operator shall remove more than two hundred and fifty tons of coal pursuant to an exploration permit without the specific approval of the regulatory authority.

H3762 (e) Coal exploration on Federal lands shall be governed by section 4 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1085).

H3762 PUBLIC NOTICE AND PUBLIC HEARINGS

H3762 SEC. 513. (a) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed by the applicant 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 may submit written comments within a reasonable period established by the regulatory authority 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.

H3762 (b) Any person having an interest which is or may be adversely affected 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, or at the request of the applicant within forty-five days after the last publication date the regulatory authority shall then hold a public hearing, unless the objections are frivolous, in the locality of the proposed mining within a reasonable time of the receipt of such objections or request. 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 one week 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 all the requirements of the applicable State or Federal program under this Act. Without prejudice to the rights of the objector or the applicant or responsibilities of the regulatory authority pursuant to this Act, the regulatory authority may establish an informal conference procedure to resolve any issues raised by the permit application or written objection thereto prior to holding a formal transcribed procedure as authorized by this Act. 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.

H3762 (c) For the purpose of such hearing, the regulatory authority may administer oaths, subpoena 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 when requested by any party to the proceeding.

H3762 DECISIONS OF REGULATORY AUTHORITY AND APPEALS

H3762 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 sixty days of said hearings.

H3762 (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.

{H3763} } (c) Any applicant or any person with an interest which is or may be adversely affected 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 falls to act within the time limits specified in this Act shall have the right to appeal in accordance with section 526.

H3763 ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

H3763 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.

H3763 (b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to -

H3763 (1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future through surface coal mining can be minimized;

H3763 (2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay

in implementation, or is violative of Federal, State, or local law;

H3763 (3) except as provided in subsection (c) 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 or otherwise available from the entire 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: A 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;

H3763 (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;

H3763 (5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

H3763 (6) restore the topsoil or the best available subsoil which has been segregated and preserved;

H3763 (7) for all prime agricultural lands as identified in section 507(b) (16) to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction shall be established by the Secretary of Agriculture, and the operator shall, as a minimum, be required to -

H3763 (A) segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

H3763 (B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

H3763 (C) replace and regrade the root zone material described in (B) above with proper compaction and uniform depth over the regarded spoil material; and

H3763 (D) redistribute and grade in a uniform manner the surface soil horizon described in subparagraph (A);

H3763 (8) create, if authorized in the approval 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 -

H3763 (A) the size of the impoundment is adequate for its intended purposes;

H3763 (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);

H3763 (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;

H3763 (D) the level of water will be reasonably stable;

H3763 (E) final grading will provide adequate safety and access for proposed water users; and

H3763 (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;

H3763 (9) plug all auger holes to a minimum of six feet in depth with an impervious and noncombustible material (such as clay) to prevent the flow of water in or out of such holes;

H3763 (10) minimize the disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by -

H3763 (A) avoiding acid or other toxic mine drainage by such measures as, but not limited to -

H3763 (i) preventing or removing water from contact with toxic producing deposits;

H3763 (ii) treating drainage to reduce toxic content which adversely affects downstream water

upon being released to water courses;

H3763 (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

H3763 (B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable State or Federal law;

H3763 (C) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized; and depositing the silt and debris at a site and in a manner approved by the regulatory authority.

H3763 (D) restoring recharge capacity of the mined area to approximate premining conditions;

H3763 (E) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

H3763 (F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

H3763 (G) such other actions as the regulatory authority may prescribe;

{H3764} } (11) with respect to surface disposal of surplus mine spoil, mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, assure:

H3764 (A) spoil, mine waste and other materials are transported and placed in a controlled manner in position for compaction and in such a way to assure mass stability and to prevent mass movement including sluffing, slipping, and creep;

H3764 (B) areas of disposal are within the permit area;

H3764 (C) appropriate surface and internal drainage in order to prevent spoil movement and erosion;

H3764 (D) the final configuration is compatible with the natural surroundings and suitable for intended uses;

H3764 (E) placement on the most moderate sloping and naturally stable areas available;

H3764 (F) construction in compacted layers and including the use of incombustible and impervious materials where combustion is a hazard;

H3764 (G) design by a registered engineer in conformance with professional standards; and

H3764 (H) all other provisions of this Act are met.

H3764 (12) refrain from surface coal mining within five hundred feet from active abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners:

Provided , That the regulatory authority shall permit an operator to mine closer to underground mines if (A) the nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the regulatory authorities concerned with surface mine regulation and the health and safety of underground miners, and (B) such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;

H3764 (13) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to subsection (e) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;

H3764 (14) insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

H3764 (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 -

H3764 (A) provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site and by providing

immediate notice to resident/occupiers in surrounding area prior to any blast.

H3764 (B) maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay used in the blasts; and

H3764 (C) 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;

H3764 (16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations;

H3764 (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;

H3764 (18) refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to each channel so as to seriously alter the normal flow of water;

H3764 (19) establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety 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 post-mining land use plan;

H3764 (20) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the

last year of augmented seeding, fertilizing, irrigation, or other work:
Provided, That when the
regulatory authority approves a long-term intensive agricultural postmining
land use, the applicable
five- or ten-year period of responsibility for revegetation shall commence at
the date of initial
planting for such long-term intensive agricultural postmining land use:
Provided further, That when
the regulatory authority issues a written finding approving a long-term,
intensive, agricultural
postmining land use as part of the mining and reclamation plan, the authority
may grant exception to
the provisions of paragraph (19) above;

H3764 (21) 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; and

H3764 (22) meet such other criteria as are necessary to achieve
reclamation in accordance with
the purposes of this Act.

H3764 (c) (1) Each State program may and each Federal program shall
include procedures
pursuant to which the regulatory authority may permit surface mining
operations for the purposes
set forth in paragraph (3) of this subsection.

H3764 (2) Where an applicant meets the requirements of paragraphs (3) and
(4) of this
subsection a permit without regard to the requirement to restore to
approximate original contour set
forth in subsection 515(b) (3) or 515(d) (2) and (3) 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.

H3764 (3) In cases where an industrial, commercial, agricultural,
residential or public facility
(including recreational facilities) use is proposed for the postmining use of
the affected land, the
regulatory authority may grant a permit for a surface mining operation of the
nature described in
subsection (c) (2) where -

H3764 (A) after consultation with the appropriate land use planning
agencies, if any, the

proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use;

H3764 (B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be -

H3764 (i) compatible with adjacent land use;

H3764 (ii) obtainable according to data regarding expected need and market;

H3764 (iii) assured of investment in necessary public facilities;

H3764 (iv) supported by commitments from public agencies where appropriate;

H3764 (v) practicable with respect to private financial capability for completion of the proposed use;

H3764 (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

H3764 (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;

H3764 (C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

H3764 (D) 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;

H3764 (E) all other requirements of this Act will be met.

H3764 (4) In granting any permit pursuant to this subsection the regulatory authority shall require that -

H3764 (A) the toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

H3764 (B) the reclaimed area is stable;

H3764 (C) the resulting plateau or rolling contour drains inward from the out-slopes except at specified points;

H3764 (D) no damage will be done to natural watercourses;

H3764 (E) all other requirements of this Act will be met.

H3764 (5) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

H3764 (6) All permits 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.

H3764 (d) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in 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 step slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area:

{H3765} (1) Insure that when performed 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: Provided, That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraph 515(b) (3) or 515(d) (2) or excess spoil from a surface coal mining operation under subsection 515(c) may be permanently stored pursuant to section 515(b) (11).

H3765 (2) Complete backfilling with spoil material shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

H3765 (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.

H3765 (e) 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.

H3765 (f) The Secretary, with the written concurrence of the Chief of Engineers, shall establish within one hundred and thirty-five days from the date of enactment, standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in section 515(b) (13) and section 516(b) (5). Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

H3765 SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS

H3765 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.

H3765 (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 -

H3765 (1) adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable 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;

H3765 (2) seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations;

H3765 (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 such exploratory holes;

H3765 (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;

H3765 (5) design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria developed pursuant to section 515(e), all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

H3765 (6) establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of selfregeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

H3765 (7) protect offsite areas from damages which may result from such mining operations:

H3765 (8) eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

H3765 (9) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated off-site areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by -

H3765 (A) avoiding acid or other toxic mine drainage by such measures as, but not limited to -

H3765 (i) preventing or removing water from contact with toxic producing deposits;

H3765 (ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

H3765 (iii) casing, scaling, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

H3765 (B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable State or Federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines; and

H3765 (10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operation: Provided, That the Secretary may make such modifications in the requirements imposed by this subparagraph as are deemed necessary by the Secretary due to the differences between surface and underground coal mining.

H3765 (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.

H3765 (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 obtain the written concurrence of the Administrator of the Mine Enforcement Safety Administration, or any successor of his who has the responsibility of promulgating rules and regulations governing coal mine safety, in every instance where his regulations or modifications would require the doing of or omission of any act in an underground coal mine or where safety of miners may be at issue. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act.

H3765 INSPECTIONS AND MONITORING

H3765 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.

H3765 (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 -

H3765 (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;

H3765 (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 -

H3765 (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;

H3765 (B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

{H3766} (C) records of well logs and borehole data be maintained; and

H3766 (D) monitoring sites to record precipitation. The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

H3766 (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.

H3766 (c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operations 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.

H3766 (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.

H3766 (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.

H3766 (f) Copies of any records, reports, inspection reports, 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.

H3766 (g) No employee of the State regulatory authority performing any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operation. Whoever knowingly violates the provisions of this subsection shall, upon conviction, be punished by a fine of not more than \$2 ,500, or by imprisonment of not more than one year, or by both. The Secretary shall (1) within sixty days after enactment of this Act publish in the Federal Register, in accordance with section 553 of title 5, United States Code, regulations to establish methods by which the provisions of this subsection will be monitored and enforced by the Secretary and such State regulatory authority, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection, and (2) report to the Congress on March 1 of each calendar year on actions taken and not taken during the preceding year under this subsection.

H3766 PENALTIES

H3766 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 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 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.

H3766 (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.

H3766 (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.

H3766 (d) Upon this issuance of a notice or order charging that a violation of the Act has occurred, the Secretary shall inform the operator within thirty days of the proposed amount of said penalty. The person charged with the penalty shall then have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Secretary for placement in an escrow account. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Secretary shall within thirty days remit the appropriate amount to the person, with interest at the rate of 6 percent, or at the prevailing Department of the Treasury rate, whichever is greater. Failure to forward the money to the Secretary within thirty days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

H3766 (e) Civil penalties owed under this Act, either pursuant to subsection (c) of this section or pursuant to an enforcement order entered under section 521 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, or at the discretion of the Secretary, taken from the performance bond posted under section 509 of this Act.

H3766 (f) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act, or fails or refuses to comply with any order issued under section 521 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 \$1 0,000, or by imprisonment for not more than one year or both.

H3766 (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.

H3766 (h) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order or decision issued by the Secretary under this Act, shall, upon conviction, be punished by a fine of not more than \$1 0,000, or by imprisonment for not more than one year or both.

H3766 (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.

H3766 RELEASE OF PERFORMANCE BONDS OR DEPOSITS

H3766 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 once a week for three successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type and the approximate dates of reclamation work performed, and 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, and the appropriate local governmental bodies, in the locality in which the surface coal mining and reclamation activities took place, notifying them of his intention of seek release from the bond.

H3766 (b) Upon receipt of the notification and request, the regulatory authority shall within sixty days, weather conditions permitting, 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.

{H3767} (c) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act according to the following schedule:

H3767 (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.

H3767 (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 in excess of the requirements set by section 515(b) (10) or until soil productivity for prime agricultural lands has returned to equivalent levels of yield as nonmined land by the same soil type in the surrounding area under high management practices as determined from the soil survey performed pursuant to section 507(b) (16).

H3767 (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:

H3767 Provided, however, That no bond shall be fully released until all reclamation requirements of this Act are fully met.

H3767 (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.

H3767 (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.

H3767 (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 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 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.

H3767 (g) Without prejudice to the rights of the objectors or the responsibilities of the regulatory authority pursuant to this paragraph, the regulatory authority may establish an informal conference procedure to resolve such written objections in lieu of holding a formal transcribed hearing.

H3767 (h) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpoena 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.

H3767 CITIZEN SUITS

H3767 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 -

H3767 (1) against the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution which is alleged to be in violation of the provisions of this Act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this title; or

H3767 (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. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

H3767 (b) No action may be commenced -

H3767 (1) under subsection (a) (1) of this section -

H3767 (A) prior to sixty days after the plaintiff has given notice in writing of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii) to any alleged violator; or

H3767 (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

H3767 (2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice in writing 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.

H3767 (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.

H3767 (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.

H3767 (d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary 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.

H3767 (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, except that this section shall be the sole basis of jurisdiction for suits under subsection (a) (2) of this section and failure to comply with the notice requirement of subsection (b) (2) shall require dismissal of the action.

H3767 ENFORCEMENT

H3767 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.

H3767 (2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or 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. Where the ordered cessation of surface coal mining and reclamation operations, or any portion thereof, will not completely abate the imminent danger to health or safety of the public or the significant environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

H3767 (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.

{H3768} } 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. In the order of cessation issued by the Secretary under this subsection, the Secretary shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order.

H3768 (4) When the Secretary's representative inspects and finds a serious violation of this Act, an approved State program or a permit condition required by this Act and that the permit holder knew or should have known of the violation, then in each instance the Secretary's representative shall issue a notice of violation including such findings. If three such notices are issued within ninety days of each other, the Secretary's representative shall issue a cessation order directing the permit holder to correct the violation. Each such notice of violation issued within six months of the issuance of a cessation order shall include another such cessation order. The Secretary's representative's cessation order may also order the permit holder to show cause why the permit should not be suspended. After the third consecutive cessation order the Secretary's representative

shall order the permit holder to show cause why the permit should not be suspended for at least five days or revoked. If the permit holder fails to show cause why the permit should not be so suspended or revoked, the Secretary's representative shall suspend or revoke the permit.

H3768 (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.

H3768 (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.

H3768 (c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representatives in carrying out the provisions of this Act, or (C) refuses to admit such

authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

H3768 (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.

H3768 DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING

H3768 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.

H3768 (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.

H3768 (3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will -

H3768 (A) be incompatible with existing governmental land use plans or programs; or

H3768 (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

H3768 (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

H3768 (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.

H3768 (4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes -

H3768 (A) a State agency responsible for surface coal mining lands review;

H3768 (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;

H3768 (C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

H3768 (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.

H3768 (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.

H3768 (6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operations are in existence prior to January 4, 1977.

H3768 (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. Prior to designating Federal lands unsuitable for such mining, the Secretary shall consult with the appropriate State and local agencies.

H3768 (c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

{H3769} (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 resources 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.

H3769 (e) After the enactment of this Act and 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 -

H3769 (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;

H3769 (2) on any Federal lands within the boundaries of any national forest: Provided, however, That surface coal mining operations may be permitted on such lands if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations and -

H3769 (A) surface operations and impacts are incident to an underground coal mine; or

H3769 (B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this Act: Provided further, That no surface coal mining operations may be permitted within the boundaries of the Custer National Forest:

H3769 (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;

H3769 (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

H3769 (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.

H3769 FEDERAL LANDS

H3769 SEC. 523. (a) No later than six months after the date of enactment of this Act, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: provided, That except as provided in section 710 the provisions of this Act shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program.

H3769 (b) The requirements of this Act and the Federal lands programs 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.

H3769 (c) Any State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of this Act. States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act. Nothing in this subsection shall be construed as

authorizing the Secretary to delegate to the States his duty to approve mining plans on Federal lands, to designate certain Federal lands as unsuitable for surface coal mining pursuant to section 502 of this Act, or to regulate other activities taking place on Federal lands.

H3769 (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.

H3769 (e) The Secretary shall develop a program to assure that with respect to the granting of permits, leases, or contracts for coal owned by the United States, that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

H3769 PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC CORPORATIONS

H3769 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.

H3769 REVIEW BY SECRETARY

H3769 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 of any order or notice.

H3769 (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.

H3769 (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 subparagraph (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.

H3769 (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 subparagraph (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 -

H3769 (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;

H3769 (2) the applicant shows that there is substantial livelihood that the findings of the Secretary will be favorable to him; and

H3769 (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.

H3769 (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.

H3769 (e) Whenever an order is issued under this section, or as a result of any administrative proceeding under this Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against either party as the court may deem proper.

{H3770} JUDICIAL REVIEW

H3770 SEC. 526. (a) (1) Any action of the Secretary to approve or disapprove a State program or to prepare or promulgate a Federal program pursuant to this Act shall be subject to judicial review only by the United States Court of Appeals for the circuit which contains the State whose program is at issue; any action by the Secretary promulgating standards pursuant to sections 501, 515(e), 516 and 523 shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. A petition for review of such action shall be filed in the appropriate court of appeals within sixty days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such application may be made by any person who participated in the administrative proceedings and who is aggrieved by the action of the Secretary.

H3770 (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 of 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.

H3770 (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.

H3770 (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 -

H3770 (1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

H3770 (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

H3770 (3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

H3770 (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.

H3770 (e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by a 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.

H3770 SPECIAL BITUMINOUS COAL MINES

H3770 SEC. 527. (a) The regulatory authority is authorized to issue separate regulations for

those special bituminous coal surface mines located west of the 100th meridian west longitude which meet the following criteria:

H3770 (1) the excavation of the specific mine pit takes place on the same relatively limited site for an extended period of time;

H3770 (2) 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;

H3770 (3) 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;

H3770 (4) the amount of material removed is large in proportion to the surface area disturbed;

H3770 (5) there is no practical alternative method of mining the coal involved;

H3770 (6) there is no practicable method to reclaim the land in the manner required by this Act; and

H3770 (7) 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.

H3770 (b) Such separate regulations shall also contain a distinct part to cover and pertain to new bituminous coal surface mines which may be developed after the date of enactment of this Act on lands immediately adjacent to lands upon which are located special bituminous mines existing on January 1, 1972. Such new mines shall meet the criteria of section 527(a) except for subparagraphs (3) and (7), and all requirements of State law, notwithstanding in whole or part the regulations issued pursuant to subsection (c) of this section. In the event of an amendment or revision to the State's regulatory program, regulations, or decisions made thereunder governing such mines, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

H3770 (c) Such alternative regulations may 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.

H3770 SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT

H3770 SEC. 528. The provisions of this Act shall not apply to any of the following activities:

H3770 (1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and

H3770 (2) the extraction of coal for commercial purposes where the surface mining operation affects two acres or less.

H3770 ANTHRACITE COAL MINES

H3770 SEC. 529. (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of sections 515 and 516. Provisions of sections 509 and 519 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: Provided, however, That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

H3770 (b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1977, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

H3770 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

H3770 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3770 There was no objection.

H3770 AMENDMENT OFFERED BY MR. MURPHY OF PENNSYLVANIA

H3770 Mr. MURPHY of Pennsylvania. Mr. Chairman, I offer an amendment.

H3770 The Clerk read as follows:

H3770 Amendment offered by Mr. MURPHY of Pennsylvania: Commencing on line 3 with the words "a hearing" delete the remaining section in its entirety through line 13 on page 266 the words "by this act." and insert the following: an informal conference requested, the regulatory authority may then hold an informal conference in the locality of the proposed mining, if requested within a reasonable time of the receipt of such objections or request. The date, time, and location of such informal conference shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least one week prior to the scheduled conference 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. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, such informal conference need not be held.

H3770 Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

H3770 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3770 There was no objection.

H3770 [Mr. MURPHY of Pennsylvania addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3770 Mr. LEDERER. Mr. Chairman, will the gentleman yield?

H3770 Mr. MURPHY of Pennsylvania. I yield to the gentleman from Pennsylvania.

H3770 (Mr. LEDERER asked and was given permission to revise and extend his remarks.)

H3770 Mr. LEDERER. Mr. Chairman, I rise in support of Mr. MURPHY's amendments to H.R. 2, the Surface Mining and Reclamation Act.

{H3771} Mr. MURPHY's amendments to H.R. 2 serve a common need - to accommodate environmental safeguards amply provided for in H.R. 2 with the need for commonsense, and the elimination of unnecessary cost and delay, and unnecessary financial burden to coal operators and resulting curtailment of vitally needed coal production.

H3771 SECTION 507(b) (11)

H3771 This amendment seeks to remove an environmentally unnecessary mandatory requirement requiring a hydrologic imbalance study for each permit application. Pennsylvania has processed 1,200 permits a year for the last 10 years without ever requiring such a study for even one permit application. In fact, there are only three to five registered hydrologists in Pennsylvania qualified to perform such a study. This mandatory requirement could create a bureaucratic bottleneck crippling the surface-mining industry in Pennsylvania. While such a study may be necessary in the western mining States to protect our water resources, it is unnecessary for all or most applications in Pennsylvania. Because of varying geographical conditions in different coal fields, such studies should be left to the discretion of the local regulatory authority.

H3771 The proposed amendment seeks to make the study discretionary with the regulatory authority and in order to insure the proper use of discretion to require the regulatory authority to state in writing the basis for not requiring such a study. We cannot allow environmental safeguards to become blinding obstacles to commonsense.

H3771 SECTION 513(b)

H3771 H.R. 2 has imposed a mandatory requirement for public hearings on any objections to a permit. This can result in great delay and added cost to the permit process without allowing for the necessary administrative flexibility which has worked so well in the universally acclaimed Pennsylvania regulatory program. The proposed amendment to section 513(b) simply requires that any objections to permits be aired in informal administrative conferences which can be held more

expeditiously. If, after a conference, the objectives are not satisfied with the position of the regulatory authority, they can request a formal hearing which can be held in the discretion of the regulatory authority.

H3771 The proposed amendment reflects the strong concern that public participation can aid the regulatory authority in its review while at the same time encourage informal expeditious resolution of objections. Such a system has been the foundation of the universally acclaimed Pennsylvania program.

H3771 Page 267, line 7, strike everything after the word "notified" down through the period on line 9, and insert the following:

H3771 "of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination."

H3771 SECTION 519(e) THROUGH (h)

H3771 H.R. 2 provides vast opportunity for public participation during the permit process, judicial and administrative remedies during the operational phase of mining as well as strong criminal and civil sanctions and enforcement procedures, including citizens suits. By the time of bond release, the operation has passed the minimum environmental standards or else sanctions including cessation of operations will have been imposed. The decision to release bond is a technical one especially suited for the regulatory authority, requiring a determination as to revegetation, original contour, and surface and groundwater quality. Public hearings and participation can only add unnecessary cost and delay. Delay at this stage can financially cripple an operator who must keep expensive equipment on site until the bond is lifted paying often \$100,000 a month in equipment rentals.

H3771 The proposed amendment takes out the unnecessary public hearings at the bond release phase. Any regulatory authority certified by the Secretary under H.R. 2 must be recognized to have the expertise to determine if reclamation has been properly completed and bond release appropriate.

H3771 We cannot allow the panacea of public hearings and participation to serve as an excuse for delay in coal production and potential financial ruin to the coal operators.

H3771 SECTION 521(a) (5)

H3771 H.R. 2, as reported out of committee, allows an operator to be shut down entirely based on the judgment of a mine inspector without notice or opportunity for hearing, raising serious questions of due process and fundamental fairness. Nor does H.R. 2 guarantee a timely hearing after such an order is issued. The proposed amendment simply requires that a hearing be held at or near the site within 15 days of such an order so that it can be expeditiously determined if the drastic remedy of cessation of operations is justified. Such an order improperly issued without justification could financially cripple or destroy an operator and deprive us of vitally needed coal production because of the misguided erroneous judgment of a mine inspector.

H3771 Commonsense, due process, and fundamental fairness, and a rational energy policy cannot tolerate the risk of unsupported interruptions in coal production. If the drastic remedy of closure of operations is imposed, let us be certain within 15 days that it is necessary and justified. The proposed amendment serves such a critical need.

H3771 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3771 Mr. MURPHY of Pennsylvania. Yes, I yield to the chairman of the committee.

H3771 [Mr. UDALL addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3771 The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURPHY).

H3771 The amendment was agreed to.

H3771 Mr. RHODES. Mr. Chairman, I move to strike the last word.

H3771 (Mr. RHODES asked and was given permission to revise and extend his remarks.)

H3771 Mr. RHODES. Mr. Chairman, I have stated on several occasions that Republicans are willing to help President Carter enact those portions of his programs which we can support and are in the best interest of the country. We have done so in several specific instances and will continue to do so.

H3771 I supported the recent creation of a Select Committee on Energy in order to give the

House an opportunity to develop a comprehensive approach to energy. I believe we need to take a rational look at our overall energy policy, and I am in hopes that the select committee can accomplish that goal. Unfortunately, the first energy program to come before this House since the creation of the select committee runs contrary to President Carter's goal of increasing coal production. In his recent message the President indicated his desire to double coal production and to encourage industries to convert to coal as a primary source of energy wherever feasible. H.R. 2 will result in a decrease in coal production and runs contrary to the President's goal and the best interest of the country. Even though there may be some disagreement over estimated production loss, it is generally accepted that H.R. 2 will have a negative impact. I think we would be remiss if the House did not give the Select Committee on Energy an opportunity to consider the impact of this legislation within the context of an overall energy policy.

H3771 I recognize the need for regulation of surface mining, and I am pleased that 38 States have adopted laws to control strip mining within their jurisdictions. I believe the Federal Government should make every effort to cooperate with the States and encourage their active enforcement of State surface mining laws.

H3771 As a nation we should conscientiously strive to protect our environment and to restore lands which may have suffered in the past from improper surface mining practices. At the same time, we must strike a judicious balance between those legitimate ends and the need to increase coal production and improve our domestic energy situation. In my opinion H.R. 2 does not strike that necessary balance.

H3771 At a time when we need to produce additional coal I cannot understand why we would try and pass a bill such as H.R. 2. In addition to decreasing production, it will increase costs to consumers. America uses coal to generate about onehalf of its electricity. An increase in the price of coal is projected to raise the average consumer's electric bill by \$34 to \$80 a year. Is this another Carter energy tax?

H3771 In addition to the increase in price to consumers, H.R. 2 will wipe out or seriously jeopardize the small coal operators in the country and result in a job loss. The bill would also expand costly and burdensome paperwork, add stringent procedural requirements and increase Federal bureaucracy.

H3771 The provision for public participation in all procedural matters could greatly expand the administrative process and virtually hamstring new production efforts.

{H3772} I think H.R. 2 is 10 years too late. Perhaps a Federal law was warranted some years ago, but now most States have acted responsibly in adopting laws and enforcing required surface mining controls. In addition, it is untimely to impose the nonproductive costs and bureaucratic burden contained in H.R. 2 on the coal industry at a time when we should be working toward increasing production within reasonable and acceptable environmental concerns.

H3772 AMENDMENTS OFFERED BY MR. MURPHY OF PENNSYLVANIA

H3772 Mr. MURPHY of Pennsylvania. Mr. Chairman, I offer additional amendments which are merely supplemental to the one that was just agreed to. These amendments pertain to sections 514(a) and (b), and they are technical in nature.

H3772 The Clerk read as follows:

H3772 Amendments offered by Mr. MURPHY of Pennsylvania: Page 266, line 15, strike "a public hearing," and insert "an informal conference". Page 266; line 22, strike "public hearing," and insert "informal conference."

H3772 Page 267, line 7, strike everything after the word "notified" down through the period on line 9, and insert the following: "of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination."

H3772 Mr. MURPHY of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

H3772 The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

H3772 There was no objection.

H3772 [Mr. MURPHY of Pennsylvania addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3772 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3772 Mr. MURPHY of Pennsylvania. I yield to the gentleman from Arizona.

H3772 Mr. UDALL. Mr. Chairman, these are technical conforming amendments which are necessitated by the adoption of the previous amendment, and we agree to them.

H3772 The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. MURPHY).

H3772 The amendments were agreed to.

H3772 AMENDMENT OFFERED BY MR. JEFFORDS

H3772 Mr. JEFFORDS. Mr. Chairman. I offer an amendment.

H3772 The Clerk read as follows:

H3772 Amendment offered by Mr. JEFFORDS: On page 261, after line 6, insert the following new subsection:

H3772 (d) (1) For five years following the date of enactment, no application for a permit or revision thereof shall be approved unless the applicant demonstrates that prime farmland does not comprise more than 10 percent of the surface area to be disturbed pursuant to an applicant's mining plan. Such demonstration shall be based upon soils maps and data verified for accuracy by the Secretary of Agriculture; provided that nothing in this subparagraph shall apply to any permit issued prior to May 1, 1977, or to any revisions or renewals thereof including those authorizing contiguous expansion of such permitted areas.

H3772 (2) The regulatory authority may, after consultation with the Secretary of Agriculture, and pursuant to regulations issued hereunder by the Secretary of the Interior with the concurrence of the Secretary of Agriculture, grant a variance from subparagraph (d) (1) if the operator demonstrates and the regulatory authority finds on the basis of data relating to prime farmlands comparable to those covered by the permit application that the operator can 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.

H3772 (3) Within 60 days of the date of enactment, the Secretary of Agriculture shall publish a definition of "prime farmland" and a notification of methods for the determination thereof.

H3772 (4) Within four years of the date of enactment, the Secretary of Agriculture shall conduct such research, experimentation and studies as are necessary to determine whether, and with what

reclamation procedures, prime farmlands should be made available for surface mining operations and based thereon make appropriate recommendations to the President.

H3772 Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

H3772 The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

H3772 There was no objection.

H3772 (Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

H3772 Mr. JEFFORDS. Mr. Chairman, this amendment is offered on behalf of myself and the distinguished gentleman from Minnesota (Mr. NOLAN), as well as the distinguished gentleman from South Dakota (Mr. PRESSLER).

H3772 This has the support of the Secretary of Agriculture and the support of the Secretary of the Interior, and it has been approved by the Office of Management and Budget. It is also my understanding that the majority does not object to the amendment.

H3772 First, I would like to explain a little bit what the amendment does.

H3772 Briefly, the amendment would apply only to permits issued after May 1, 1977, and would:

H3772 First, preclude issuance or revision of any surface mining permit for a 5-year period after enactment of the bill unless the applicant demonstrates that prime agricultural farmland comprises not more than 10 percent of the surface area to be disturbed;

H3772 Second, if, however, the operator can demonstrate that he "can restore the land affected to a condition at least fully capable of supporting the uses to which it was capable of supporting prior to any mining," he can begin operations. Thus, the 5-year period is primarily for review purposes, and operations may proceed as soon as the industry can demonstrate that it can both mine and restore.

H3772 The amendment was proposed by the Council on Environmental Quality, and has been endorsed on the record by the Secretaries of the Interior and Agriculture and the Director of the Soil Conservation Service.

H3772 As stated in a recent letter from Secretary Andrus -

H3772 This nation has abundant coal resources and we can afford to be selective in deciding how they are used. Time and study are needed to find out whether and how strip mining of prime farmland should be permitted.

H3772 I would also like to point out that there are significant problems with the present language which this amendment will correct.

H3772 First, under 515(7) A language a surface miner is allowed to fulfill the top soil requirements if it can "be shown that other available soil materials will create a final soil having a greater production capacity." Thus a strip miner can qualify by buying a nearby farm, strip its topsoil off, make it useless, and put it on the mined land fulfilling the statute, but destroying an equal or greater amount of prime farmland.

H3772 Second the Secretary of Agriculture is mandated to write regulations which he cannot do because the methodology does not exist. Thus the bill is left with the minimum requirements of (7) (A), (B), and (C), as to separation, of layers, with no real expectation that the prime cropland will be thus restored. Let me quote from a letter of the Secretary of the Interior to Chairman UDALL:

H3772 It has become increasingly clear that we lack information about how successfully strip mined lands can be reclaimed. This problem is particularly acute with respect to the rich prime farmlands of the Nation. As these lands are more and more subjected to coal development, it becomes essential to assure that they can be fully reclaimed and their long-term productive capability will not be lost.

H3772 Also the effect of 515(b) (7) may be to reduce the protection which might otherwise be afforded by 515(b) (2) because it implies conformance with the minimum standards in (b) (7) will suffice for (b) (2).

H3772 This amendment is needed.

H3772 The central purpose of the amendment is to retard the alarming rate of annual attrition of our prime farm acreage while the industry develops the necessary technology and techniques to permit acceptable restoration of the land after strip mining has occurred as stated by Secretary Bergland in a recent letter to Bert Lance:

H3772 The reclamation of prime farmlands is, in our judgment, technically possible. It is not being done at this time, however, and it will take several years for the industry to gain equipment, technical skills, and operational capability. It is not wise, from the standpoint of national priorities, to encourage them to gain that experience on the prime farmlands of our Nation. It would be far better . . . to call for a moratorium coupled with a grandfather clause that would allow those companies with ongoing operations or significant financial or legal investment in a site to continue that operation.

H3772 We are losing our agricultural base at an alarming rate. Recent studies by the Soil Conservation Service have shown that as much as 1.7 million acres of valuable cropland is being lost yearly to public works, industrial and urban uses. Considering that we have only about 25 million surplus acres of prime agricultural land left, it is clear that if we do not offer this protection, we will be helping replace one crisis with another.

{H3773} The potential for significant additional attrition of one of our most precious resources, prime agricultural land, is quite serious - if we do not now take careful steps to protect it.

H3773 A prime example of the rationale for this protection is the situation in one of prime coal-producing States, Illinois. In Illinois, total strippable coal reserves lie under 3 million acres of land. Of these 3 million acres, 53 percent are prime agricultural land, so that 1.5 million acres of this prime land may well be directly or indirectly impacted by new surface stripmining.

H3773 It is also a fact that under present 1977 production rates there are 161 years of strip mining left on nonprime lands in Illinois. With this quantity of coal available, it would certainly be imprudent, in fact stupid, for us to allow strip mining with techniques that the Secretaries of Interior and Agriculture have said are untested, and presently unworkable in their ability to restore the land to their premined productivity.

H3773 I would point out, as well, that Illinois leads the Nation with 8.2 percent of all agricultural export shares for all agricultural commodities. The ability of this State to export agricultural commodities will become increasingly important in the next 25 years as world population doubles to approximately 8 billion people.

H3773 The problem is made more serious since it is obvious that it is easier for companies to stripmine under our prime flat lands. Thus there will be an obvious tendency for the coal producers to gravitate quickly toward these lands, with uncertain prospects for their ability to reclaim them, and with a more certain detrimental effect on the future of the Illinois commodity export trade.

H3773 At the same time, the SCS States that surface mining, "as practiced in much of the Nation today, either ruins farmland completely or reduces its production drastically."

H3773 The data is not available to show how much and what percent of recoverable coal lies under these lands. The amendment gives the Secretary of Agriculture the authority to set a definition of "prime farmland." We do know, however, according to the Soil Conservation Service, that tremendous quantities of coal exist in areas which are already in operation. According to a study coordinated by OMB, based on the projected surface production in 1977 - and not counting the continuation of existing mines - the major coal States could produce all of their planned surface production from nonprime lands for many years.

H3773 The SCS concludes that "clearly, there are more than enough coal reserves associated with non-prime lands to avoid any depressing effect on coal production during the moratorium period."

H3773 The following points should be highlighted:

H3773 First. The increased production of coal from the Nation's abundant reserves during this interim period will not be constrained by the prime farmland restriction.

H3773 Second. Industry should have the necessary technology and techniques developed by the end of this period to enable the best of both worlds: stripmining of coal below prime farmland as well as preservation of that diminishing resource.

H3773 Mr. Chairman this amendment will significantly improve this bill.

H3773 Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

H3773 Mr. JEFFORDS. I yield to the gentleman from Massachusetts.

H3773 Mr. TSONGAS. Mr. Chairman, I would like to commend the gentleman for his initiative.

H3773 I was the author of the language in the bill, and I think that what people do not realize is

that I, as one from the East, do not have any significant farmland in my district. Therefore, when we talk about reclamation, the assumption has been that we simply skim the top off, put it back, and somehow it is back to normal.

H3773 The fact is that that simply is not the case, that it is far more sensitive than one would assume, and that the land has to be put back in very careful strata, unlike what one would assume might happen, perhaps, out in the country.

H3773 Mr. Chairman, I think in terms of what we discussed earlier with something like 2 million acres a year, as the gentleman said, coming out of agricultural production and into various other uses, if we are going to take this land and make it, in essence, unusable in the future, I think we are doing a lot more damage than we realize.

H3773 Again, Mr. Chairman, I commend the gentleman for his initiative.

H3773 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3773 Mr. JEFFORDS. I yield to the gentleman from Arizona.

H3773 Mr. UDALL. Mr. Chairman, I think this amendment is consistent with what we already have in the bill. We have a structure to protect prime agricultural land, one of the greatest resources this country has.

H3773 Mr. Chairman, the gentleman's amendment, as I read it, would give us a little bit of extra protection in the interim period between the time and interim standards would apply in the State.

H3773 My inclination, Mr. Chairman, is to accept this amendment. I was opposed to a 5-year moratorium, which had first been suggested, because our bill says that one does not mine unless he puts the land back and gets an equivalent yield and has useful production from the land.

H3773 It seems to me that the amendment is now consistent with that position, and I support it.

H3773 Mr. RUPPE. Mr. Chairman, will the gentleman yield?

H3773 Mr. JEFFORDS. I yield to the gentleman from Michigan.

H3773 Mr. RUPPE. Is this not a 5-year mortroum, in effect?

H3773 Mr. JEFFORDS. No, it is not.

H3773 Mr. RUPPE. How does it vary from a 5-year moratorium?

H3773 Mr. JEFFORDS. It varies in several ways. First, it grandfathers existing mining operations, including revisions or renewals. Secondly, it does not affect those operations which will affect 10 percent or less of prime agricultural land; and third, it does have a variance procedure. If they demonstrate they can do what needs to be done, then the Secretary of Agriculture can grant a permit.

H3773 Mr. RUPPE. If the gentleman will yield further, it does get the Secretary of Agriculture in the picture; and without his approval, in effect, we do have a moratorium; is that correct?

H3773 Mr. JEFFORDS. I suppose that is true with almost any situation where you have discretion. If an Administrator refuses to grant a permit, then of course there is a moratorium. But again it could not apply to existing mining operations. These operations would supply the learning necessary to allow for satisfactory reclamation.

H3773 Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

H3773 (Mr. RUPPE asked and was given permission to revise and extend his remarks.)

H3773 Mr. RUPPE. Mr. Chairman, I rise in opposition to the amendment because I really do not see the reason for the amendment. I do not see the need for bringing the Secretary of Agriculture into the picture.

H3773 It seems to me that this is a bill generally regulated by the Secretary of the Interior, and I believe that is the way it should be.

H3773 Mr. Chairman, at the present time we do identify very clearly prime agricultural land. We say, first of all, that prime agricultural lands - and I want to repeat this once more - are those lands that have been used for intensive agricultural purposes and whose present agricultural use provides a significant contribution to the local economy. Consequently there is a very clear definition of what is prime agricultural land.

H3773 Then we say in the bill that one can mine in these prime agricultural lands, but he has to segregate the "A" soil, the prime topsoil. Then he has to segregate the "B" and "C" soil horizons. At the end of the mining process, he puts back the "A" or topsoil. He also puts back the "B" and "C" soil in whatever combination is best for the agricultural use of that land.

H3773 Let me remind the Members in this room that very often after mining these prime agricultural lands, these soils can be put back to more and better productive use than was the case before the mining itself. That is why we segregate very clearly the A or the No. 1 horizon. It is also required by the U.S. Soil Conservation Service, that the B and the C horizon soils are also segregated. The B and C horizon soil, at the time of being placed back on the top surface are placed back either individually, or collectively, or in combination, however is best determined by the U.S. Soil Conservation Service, so as to make the land as productive as possible at the end of the mining cycle.

H3773 Since it would seem to me under the bill before us we have a very clear definition as to what are prime agricultural lands; simply those lands in the country which are used for some type of agricultural purposes, those lands that provide a significant contribution to the local economy. Then we say, under that definition that you have to take care and give consideration to that land and you have to insure that you can put it back into productive use afterwards. So, it seems to me the safeguards are there.

{H3774} Mr. TSONGAS. Mr. Chairman, if the gentleman will yield the gentleman from Michigan's argument is that with the existing language, that that is sufficient, under the present bill's provision so that prime agricultural land could be protected and it could not be stripped unless you can restore the land?

H3774 Mr. RUPPE. That is correct.

H3774 Mr. TSONGAS. Under the amendment offered by the gentleman from Vermont (Mr. JEFFORDS), it could be mined if it could be shown that there were variances.

H3774 Mr. RUPPE. Why run through the variance procedure? Why make a whole new requirement? That is the problem, everybody can think of a variance. So I believe we ought to stick to the letter of the bill that identifies prime agricultural land. We say that where those lands are located you have to do certain things to insure the productivity of those lands, those soils, after the mining process has been completed. It would seem to me that that is what we want.

H3774 Mr. HUCKABY. Mr. Chairman, if the gentleman will yield, the Department of

Agriculture considers prime agricultural lands as such lands in the Southeast and Southwest that are not capable like the rich farming lands of the Midwest where they grow corn, but down there they only grow pine trees or maybe Bermuda grass.

H3774 Mr. RUPPE. That is right. And I will say, very clearly, that we are opening up, in my opinion, a very broad definition because tree farming can be what the Secretary of Agriculture defines as prime agricultural land so, in effect, there is really no end to the land that can be covered under the definition.

H3774 Mr. HUCKABY. That is right, so that that possibly encompasses all the land in this country except for the deserts and for the mountaintops.

H3774 For instance, let me tell the Members what you can conceivably do here. The States of Louisiana and Texas have been called upon to give up all of their natural gas, so it can be used for home heating. The States of Louisiana and Texas have a lignite coal industry that they would like to develop. It is just beginning to get off the ground, and if the land can be restored there then we are in fact just adding another layer of bureaucracy.

H3774 So, Mr. Chairman, I strongly object to this amendment.

H3774 Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

H3774 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3774 Mr. BAUMAN. Mr. Chairman, this bill has a specific section written at the suggestion of the U.S. Soil Conservation Service officials and others, who appeared before the committee. It prescribes the manner of reclamation desirable for prime agricultural lands. It is a very appealing concept, particularly for one from a rural area, to decide to exempt prime agricultural land from any mining. There are roughly 380 million acres in this country that fall into the category of prime agricultural land and an almost infinitesimal part of that is touched by strip mining; less than one-half of 1 percent. But that one-half of 1 percent of land produces nearly 75 million tons of coal each year.

H3774 The worst possible case that we heard was a first year's production loss, if no prime agricultural land were permitted to be mined, of almost 75 million tons. A 5-year moratorium on

new production alone would mean a loss of more than 10 million tons. Where are we going to make that up in other sources of energy?

H3774 We talked here today of increasing coal production and the need for an energy solution. We do have safeguards for prime agricultural land. We all have to be aware of where tradeoffs have to be made. As I read the gentleman's amendment, it brings the Secretary of Agriculture into this procedure. Also, while it pretends to allow mining of farm land that does not comprise more than 10 percent of the surface area, that would probably preclude most of the mining. We have got to make a basic decision.

H3774 I do not know why the gentleman from Arizona accepts this amendment now. I thought the committee had resolved this. This is a move literally, as the gentleman from Louisiana has said, to remove from production vast areas of this country, and I would hope that the gentleman from Arizona would reconsider, as he just apparently did, his past opposition to this kind of thing.

H3774 Mr. RUPPE. Mr. Chairman, will the gentleman yield?

H3774 Mr. BAUMAN. I yield to the gentleman from Michigan.

H3774 Mr. RUPPE. I thank the gentleman for yielding.

H3774 I think we have surety under the bill when we say what has to be done. If an area is defined as prime agricultural land, under the amendment the definition of prime farm land will be made by the Secretary of Agriculture. This is a whole new layer, very seriously, of bureaucracy brought into the bill. This is essentially a Secretary-of-the-Interior-mandated bill, and why should we have a definition of prime agricultural land now decided by the Secretary of Agriculture.

H3774 We had the Soil Conservation Service in informal hearings before us, and we asked, "If you segregate the soils, the A and B and C in combination, can you restore the land to productivity after the mining process?" And their response was, "Yes." It was an affirmative response to our inquiry. "If you segregate the soils, can you restore the productivity?" Their answer was in the affirmative.

H3774 Mr. BAUMAN. I would just observe that the gentleman from Michigan is very much in support of this bill. Despite my opposition to the bill we happen to agree on this amendment.

Throughout the committee consideration of this bill, the gentleman offered a great many amendments that would improve it. The gentleman from Arizona is ready to admit that, I am sure, but the net result is that we are both opposing this change, because this is very disruptive of the requirements that this Nation has for energy.

H3774 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3774 Mr. BAUMAN. I yield to the gentleman from Arizona.

H3774 Mr. UDALL. I thank the gentleman for yielding.

H3774 Mr. Chairman, let me say I like what we have worked out, what the gentleman from Michigan and I have worked. The gentleman from Massachusetts (Mr. TSONGAS) was the original author of good solid agricultural farmland in the amendment. I like it in the bill. I am perfectly content with the way it is now. I have not had such full court press as we have had in the last few days from the administration on this prime-land business. The reason I accept it is I have read it carefully, and I do not think it makes any difference.

H3774 Mr. BAUMAN. Mr. Chairman, if I can reclaim my time, if it makes no difference, why would not the gentleman oppose it?

H3774 Mr. UDALL. If the gentleman will yield further, apparently the authors of the amendment and some people in the administration who want to say they have a strong bill are using this as some kind of symbol as to whether or not we are going to have strong protection of prime agricultural land. It says in the amendment one can get a variance. What does one have to do to get a variance? One has to do what we have already provided in the bill. I do not think there is any great deal of difference whether it is in or not. The reason I do not like it is it adds another level of bureaucracy.

H3774 Mr. BAUMAN. Exactly. It creates more bureaucracy and a burden on the ultimate consumers and could reduce coal production.

H3774 Mr. UDALL. I do not see much difference.

H3774 Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words.

H3774 (Mr. HUCKABY asked and was given permission to revise and extend his remarks.)

H3774 Mr. HUCKABY. Mr. Chairman, I think our Chairman is so correct in the fact that, as I understand him, this is just going to add another layer of bureaucracy. It is going to create more time delay in opening new surface mining operations. It is nothing but window dressing. They started out with a 5-year moratorium. They saw they could not get that, so now they are coming back in here and saying that it really does nothing but provide a variance procedure. This is another layer of bureaucracy in order to open up new mining areas where they can restore the land to its original agricultural use, so I am very much opposed to this amendment.

H3774 Mr. RUPPE. Mr. Chairman, will the gentleman yield?

H3774 Mr. HUCKABY. I yield to the gentleman from Michigan.

{H3775} } Mr. RUPPE. Mr. Chairman, I would hesitate to bring this up because obviously we are not going to get a bill or an amendment favorable to me without the support of the majority in the House, but I think in all honesty one has to look at in some degree just where the Secretary of the Interior wants us to go, because he did propose a number of amendments. I question whether the Members in this House are ready to accept the interpretation of the administration or of the Secretary of the Interior as to where this bill ought to go.

H3775 The Secretary proposed the complete banning of mining on alluvial valley floors and primary agricultural lands. He also offers other amendments.

H3775 I do not mean to be critical of the Secretary and his staff is new and they have offered also additional amendments which would require the applicant for any mining permit to give to any regulatory authority a long-range weather forecast in the area in which he is going to mine. Who can do that and stand before a regulatory authority and state what the future weather conditions are going to be in any area and satisfy that authority before one can get a mining permit? Also he has to get approval of all the fish and wildlife agencies in that area. Who can do that? I would say to the people in Texas they are going to have to get out of gas and get into coal in a couple of years and they cannot get all the fish and wildlife people to agree.

H3775 The people under the Secretary of the Interior who are working on this are going in an opposite direction from the President himself. I mean this seriously. The President said we should move in an environmentally safe manner and we have to use this land and its resources for the

people of this country. The staff people in the Interior Department have come up with the exact antithesis of what the President has told us he wants. If we are going to accept the suggestions of the Secretary's people we will be flying in the face of the very specific commitments that President Carter has made to the Nation.

H3775 Mr. UDALL. Mr. Chairman, will the gentleman yield?

H3775 Mr. HUCKABY. I yield to the gentleman from Arizona.

H3775 Mr. UDALL. Mr. Chairman, I was going to see if we can get to a vote on this.

H3775 I would ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 8 minutes.

H3775 The CHAIRMAN. Does the gentleman from Louisiana yield for that purpose?

H3775 Mr. HUCKABY. I yield.

H3775 The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

H3775 There was no objection.

H3775 The CHAIRMAN. The Chair recognizes the gentleman from South Dakota (Mr. PRESSLER).

H3775 (Mr. PRESSLER asked and was given permission to revise and extend his remarks.)

H3775 Mr. PRESSLER. Mr. Chairman, I rise as a cosponsor and as a strong supporter of this amendment. After our people, our farmland is the most valuable resource to our Nation. The production of food is fundamental to the existence of the human race. This amendment will not slow down coal production; indeed, the studies that we have available have shown that it will not affect overall coal production. But it will protect our farmland.

H3775 Coming from a family farm, I have become increasingly concerned with the way we are using our prime farmland. I can cite examples of industrial expansion into areas of prime farmland when other alternatives are available. I need not mention the massive use of prime farmland in some programs of the Federal Government, such as the wildlife mitigation program. I am not totally opposed to this.

H3775 But in my State of South Dakota, for example, prime agricultural land is being taken for wildlife mitigation areas in sections of the State where less desirable land could be used. There are sloughs available; there are low areas; and there are other types of land that could be used for mitigation that, in fact, are more suitable for wildlife. This mitigation is occurring throughout South Dakota, in part because we are in a "flyway" for interstate birds. I am an environmentalist and am strongly in favor of preserving those birds, but I believe that if a program such as the national shelterbelt program were to be adopted, we would be much further ahead.

H3775 Insofar as this amendment is concerned, it would provide protection for some of our prime agricultural land. We presently enjoy an abundance of food in our country, but that day may change. Let us remember that one of our greatest natural resources is our prime agricultural land. We are down to approximately 5 inches of topsoil - when our country began we had approximately 30 inches of topsoil. Let us act now to take steps to ensure that a special procedure is used before prime agricultural land is destroyed, and let us be certain that it is restored after the mining is complete.

H3775 (By unanimous consent, Mr. PRESSLER yielded his time to Mr. JEFFORDS.)

H3775 The CHAIRMAN. The Chair recognizes the gentleman from Vermont (Mr. JEFFORDS).

H3775 Mr. JEFFORDS. Mr. Chairman, I think the amendment is much more significant than is known at this particular point.

H3775 Right now we are running out of agricultural land. We have lots of coal under land which is not prime agricultural land. All we are asking in this amendment is to give some minimal protection to prime agricultural land and say we should mine somewhere else first until we have the techniques to reclaim that land, because unless we can reclaim the land, it is gone forever. With prime agricultural land disappearing at a rate of 1.7 million acres a year, in 10 years or 15 years we will have a crisis in agriculture.

H3775 This amendment does no harm. The Secretary of Agriculture and the Secretary of the Interior support it. I think we ought to defer to their judgment. Simple logic dictates this. If they are right and if the opponents of this are wrong, there is no way we can bring that land back and this

Nation will suffer irreparable harm. Since there is plenty of coal under nonprime agricultural land, our energy supply will not be impaired. Simply stated you cannot go wrong with a "yes" vote. A no vote may lead to a national disaster.

H3775 The CHAIRMAN. The chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

H3775 (Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

H3775 Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman from Vermont. I think this is a reasonable amendment. The trouble is that we really do not know at this time whether we can restore prime agricultural land to its condition of previous productivity. In fact, we had quite a bit of testimony in our hearings that indicates it may not be possible at all with respect to some types of soil. It seems reasonable to require the coal operator to carry the burden of showing that it can be done. The amount of coal affected is very small. The loss of future food production capacity could be serious.

H3775 Therefore, I would support the amendment.

H3775 The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. NOLAN).

H3775 Mr. NOLAN. Mr. Chairman, I rise in support of the amendment.

H3775 The administration's proposed 5-year strip-mining moratorium on prime farmlands is technically not a moratorium, Rather, the administration's language, being offered as an amendment to H.R. 2 by Mr. PRESSLER and Mr. JEFFORDS, establishes a specific review procedure for new strip-mining applications in a special category of lands, prime farmlands.

H3775 New applicants who show less than 10 percent prime farmland in their proposed mining plan will be permitted to mine, and applicants who can demonstrate, through substantiated data verified by the regulatory authority, the Secretary of the Interior, and the Secretary of Agriculture, that prime farmlands comparable to those proposed for mining have been restored to their full agricultural capability may also be issued a permit. In the absence of these showings, all new permit applications for a period of 5 years from the date of enactment of H.R. 2 which show 10 percent or more prime farmland in their mining plan will not be approved.

H3775 During the 5-year period, research and experimentation will take place to determine

whether strip mining should proceed on prime agricultural land, with primary focus on soil reconstruction after strip mining to determine whether agricultural capabilities can be restored. All existing operations on prime farmland will be required to segregate and sequentially replace topsoil horizons. This provision is already in H.R. 2.

H3775 The proposed Pressler-Jeffords amendment differs from any requirement already in H.R. 2 in that it:

{H3776} } First, establishes a special permit review procedure for new strip mining on prime farmlands for a period of 5 years from the date of enactment of H.R. 2;

H3776 Second, activates the involvement of the Secretary of Agriculture in the review of all new permit applications in prime farmland areas;

H3776 Third, establishes criteria and special burdens of proof to be used to determine which strip mine operations will and will not be allowed to mine in prime farmland areas; and

H3776 Fourth, requires that a study of special reclamation practices and soil reconstruction procedures be conducted for prime-farmland mining operations, to determine whether, and with what reclamation procedures, prime farmland should be made available for future surface mining.

H3776 Prime farmland is generally defined by the SCS as "land available for growing crops that has the soil quality, growing season, and moisture supply needed to produce sustained high yields economically when treated and managed according to modern farming methods." To qualify as prime farmland, land must meet specific criteria established in 1975 by the SCS for moisture supply, water table, flooding, soil temperature, permeability, acidity, alkalinity, salinity, stoniness, and erosion hazard.

H3776 The percent of prime farmland in a given area can be determined through detailed soil types, soil associations, and soil surveys.

H3776 Illinois has upward of 9 million acres of prime farmland in its coal counties; Indiana, 1.6 million acres; western Kentucky, 800,000 acres. However, all of this acreage may not coincide with strippable coal reserves. Moreover, the issue is not strippable coal reserves affected, but new strip mine starts affected for the 5-year period, since conceivably, after the 5-year period, strip mining

could proceed on prime farmland unfettered by any additional review process once it is learned how to restore such lands to their full agricultural capability and what technological performance will be required of the operator.

H3776 The purpose of this amendment then is to direct new strip mine starts to nonprime areas until it is determined whether strip mining should proceed on prime farmland. The available data indicate that there are more than ample coal reserves on nonprime land to meet the Nation's needs well into the foreseeable future.

H3776 Mr. Chairman, I urge adoption of the amendment.

H3776 The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. CORNWELL).

H3776 (Mr. CORNWELL asked and was given permission to revise and extend his remarks.)

H3776 Mr. CORNWELL. Mr. Chairman, I rise in opposition to the amendment.

H3776 Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Vermont. Even though my district of Indiana has approximately 937 million tons of strippable coal on nonprime farmland, all information available to me shows that at the present 1977 production rate, this supply will be exhausted within 35 years. However, Mr. Chairman, the purpose of this act, in accordance with the urgency of the energy crisis, is to maximize our production of domestic fossil fuels. This will greatly speed up the stripping of coal in my district and will thus exhaust our supply at a much earlier date. The following counties have an abundance of prime agricultural land, under which lies an abundance of coal, all part of the extremely rich Illinois basin. The economy of this most depressed district in Indiana relies to a great extent on stripping of coal. I therefore encourage my colleagues to vote against this amendment, knowing full well that this problem is not unique to only 1 of 435 districts. The reclamation processes are available now at a minimal cost to the coal companies of an additional 2 cents per ton of mined coal. By the time of extinction of strippable coal in my district, technological capabilities will be available to go for the 8.9 billion tons of coal that my Indiana district holds in deep reserves. I therefore urge my colleagues to defeat this amendment.

H3776 The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. HUCKABY).

H3776 (Mr. HUCKABY asked and was given permission to revise and extend his remarks.)

H3776 Mr. HUCKABY. Mr. Chairman, I rise in opposition to this amendment. I would like to point out that the overwhelming majority of our farmland today that is being taken away from surface mining, from urban sprawl and that the next biggest section is taken away from our highways. Just a minor percentage, less than 1 percent, is being taken away from surface mining. Less than 1 percent is being taken away from surface mining. We are restoring lands today that are considered prime agricultural land. These lands will not do anything but grow grass, this amendment would prohibit that.

H3776 Mr. Chairman, I speak very strongly in opposition to this amendment.

H3776 The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. RUPPE).

H3776 (Mr. RUPPE asked and was given permission to revise and extend his remarks.)

H3776 Mr. RUPPE. Mr. Chairman, this amendment basically puts a ban for a period of years on any mining on prime agricultural lands. There is talk of a variance, but a variance cannot be triggered until the Federal Government conducts a rather long mandated research program. The Soil Conservation Service told us directly if they mine prime agricultural lands in Illinois or Indiana, where they all are, and segregate them and put them back, it is the word of the Soil Conservation Service directly to us that those lands are just as subject to the same protections before the mining operations as they are after the mining operations.

H3776 The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

H3776 (Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

H3776 Mr. BAUMAN. Mr. Chairman, I think we have to quantify in our minds before we vote on the amendment what the impact is. The amendment is not necessary. We can read on page 271 exactly how this bill prescribes the preservation of prime agricultural lands and also preserves continued surface mining. If this amendment passes, almost 20 percent of surface mining could be

banned in this country. There could be an overall loss in deep and surface mining of 10 percent in our current 600 billion tons in the first year.

H3776 Mr. Chairman, the committee rejected this when the proposition was before it. Here today in the Committee of the Whole we should do the same.

H3776 The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

H3776 (Mr. UDALL asked and was given permission to revise and extend his remarks.)

H3776 [Mr. UDALL addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3776 The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

H3776 The question was taken; and on a division (demanded by Mr. JEFFORDS) there were - ayes 16, noes 42.

H3776 So the amendment was rejected.

H3776 [Mr. UDALL addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

H3776 Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

H3776 The motion was agreed to.

H3776 Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, had come to no resolution thereon.