

CONGRESSIONAL RECORD JULY 18, 1977
Legislative History

Congressional Record July 18, 1977

Following is the July 18, 1977 Congressional Record. The text below is compiled from the Office of Surface Mining's COALEX data base, not an original printed document, and the reader is advised that coding or typographical errors could be present.

123 CONG.REC. S12201
July 18, 1977

{S12201} Mr. METCALF. Mr. President, shortly, I hope the Senate will consider the conference report on the Surface Mining and Reclamation Act. The report was filed on July 12. A copy of the report and the text of the final bill agreed upon is contained in the CONGRESSIONAL RECORD for July 12 at pages H6938-H6971. The report and final text have by now been printed and are available to every Senator. The following explanation of the major provisions of the bill and the changes from the Senate bill that previously passed the Senate may answer some of the questions concerning this legislation. I ask unanimous consent that this information be printed in the RECORD.

S12201 There being no objection, the material was ordered to be printed in the RECORD, as follows:

S12201 THE SURFACE MINING CONFERENCE REPORT

S12201 The conference report represents the culmination of many years of patient effort by many Members on both sides of the aisle in the Senate and the House to develop the first Federal legislation to regulate surface coal mining. The agreed upon bill is a strong, enforceable and balanced one. It contains many revisions of H.R. 25, the predecessor bill which was vetoed by President Ford, revisions which will ensure that the transition from the existing patch-work of State and Federal administration to one uniform regulatory system will be as expeditious and as equitable as possible.

S12201 The Surface Mining and Reclamation Act of 1977 was introduced early in the 95th Congress in both the House (H.R. 2) and the Senate (S. 7). H.R. 2 was nearly identical to the vetoed H.R. 25, whereas S. 7 was somewhat streamlined so as to place the emphasis upon coal mining exclusive of other mineral extraction. The Senate Energy and Natural Resources Committee added many features bringing the bill more in line with the House bill.

S12201 MAJOR PROVISIONS

S12201 The joint statement of managers explains the conference report in some detail. However, in the interest of clarifying the understanding of my colleagues, I will highlight some major provisions in the report:

S12201 First. Environmental standards. The conference report establishes the basic standard that lands may not be surface mined unless they can be reclaimed. It includes the following environmental protection standards: prevention of dumping spoil and overburden downslope in mountainous areas; a requirement that mine sites be regraded to approximate original contour, including backfilling to final cut to eliminate highways; revegetation measures to assure land stability and long term productivity; and water protection standards directed at protection of water quantity and quality. The latter will be particularly significant in maintaining the delicate hydrologic relationships in the West and preventing acid mine drainage in the East. The environmental performance standards are not inflexible, however, as the report provides for variances from these standards in order to allow certain planned postmining land uses. Mountaintop mining is recognized as a regularly permitted activity under special environmental requirements.

S12201 Second, State responsibility. The report gives the principal responsibility for surface mining regulation to the States. The States are given 34 months to prepare adequate regulatory programs to meet the minimum standards in the act. Federal funding is available to help the States prepare and enforce such programs.

S12201 Third. Surface impacts of underground mines. The report also treats surface impacts of underground mines such as those resulting from mine waste disposal. In particular, mine waste embankments are covered by rigorous engineering requirements.

S12201 Fourth. Reclamation of orphan lands. The report establishes a reclamation program to repair past damages from both surface and underground coal mines in all regions of the country. In addition, assistance is provided for the construction of public facilities in order to ameliorate the impact of rapid coal development. For 15 years, a reclamation fee of 35 cents per ton for surface mined coal and 15 cents per ton for underground mined coal, and 15 cents per ton or 10 percent of the value of lignite coal, whichever is less, is assessed in order to provide for the reclamation program. One-half of this money must be spent in the State or Indian reservation in which it is collected.

S12201 Fifth. State mineral institutes. The bill also authorizes the

Secretary of the Interior to establish State mining and mineral resources research institutes at State or other eligible universities. These institutes will perform research on mineral extraction and processing technologies, and train engineers and scientists to serve the needs of the Nation's mining industry. This program should help to avoid future materials and personnel shortages. Then regional coal research laboratories and 1000 energy research fellowships are also to be established.

S12201 Sixth. Surface-owner protection. The conference report establishes as Federal coal leasing policy a requirement that the Secretary of the Interior not lease for surface mining without the consent of the surface owner Federal coal deposits underlying land owned by a person who has his principal place of residence on the land, or personally farms or ranches the land affected by the mining operation, or receives directly a "significant portion" of his income from such farming. By so defining "surface owner," the conferees seek to prevent speculators purchasing land only in the hope of reaping a windfall profit simply because Federal coal deposits lie underneath the land.

S12201 Seventh. Prime farmlands. The conference report establishes special performance standards respecting soil reconstruction of prime farmland after mining, and requires the regulatory authority to make a written finding that the operator has the ability to restore the land to premining levels of agricultural productivity.

S12201 Mr. President, as with any legislation which touches so many vital areas of national, State and personal interests, a number of major issues emerged in conference:

S12201 (a) The treatment of alluvial valley floors and prime farmlands will have an important bearing upon the ability of our farming communities to continue over the years to produce the quantity of food demanded by domestic and foreign markets. The conference report does not impose a ban on surface mining in these critical areas but rather requires a case-by-case judgment by the regulatory authority as to whether soil structures and the hydrology can be restored so that the productive capacity of the land will be returned to its pre-mining levels.

S12201 (b) The conference report reflects a deep concern with protection of surface owner rights. Instances where federally-owned coal deposits underlie privately-owned surface posed difficult problems which long delayed the conference committee considering H.R. 25 in 1975. The present conference report adopts the House bill which is virtually the same language as that reported by the Senate Energy and Natural Resources Committee in S. 7. For the relatively small number of western ranchers and farmers who are opposed to the leasing of

the underlying Federal coal and the disruption of their traditional way of life,
the conference report would provide the right to withhold consent and prevent the strip mining of this land.

S12201 In instances where the underlying coal deposit is privately owned,
the conference report left to existing State law and the jurisdiction of State courts the settlement of questions regarding the surface owner's consent for surface mining.

S12201 (c) Another group of citizens who will be seriously affected by this legislation are the small operators. Mine operators whose annual output of coal is less than 100,000 tons often do not have a sufficient profit margin to absorb the costs of environmental protection standards imposed by the bill. The conference report contains relief measures for such small operators, extending the grace period from 9 to 18 months beyond the date of enactment, during which the only interim performance standard applying to their operations would be a prohibition against the placement of spoil on the downslope.

S12201 (d) Landowners in mountainous areas have been concerned that where stripmining produces flat land which is useful for residential, industrial or other types of development, the steep slope performance standards of the bill would preclude such valuable uses. In recognition of this need, the conference report modifies the standards so as to allow retention of strip mine benches.

{S12202} } However, all highwalls are to be eliminated, except in specific cases approved by the Secretary.

S12202 (e) The reclamation of orphan or abandoned mined lands has been a long-neglected problem in many coal-producing States. The role of the State governments and the allocation of funds collected from a special reclamation fee imposed on coal production were matters at issue. The Conference report divides the funds 50-50 between coal-producing States and Indian Tribes on one hand and the Secretary of Interior on the other, specifying that States and tribes are to exercise comparable authority under programs approved by the Secretary.

S12202 Mr. President, I mention these issues in order to underscore the conscientious manner in which the Conferees have worked together to produce a fair and equitable conference report. I believe this bill will help to ensure the restoration of environmental quality after mining is completed. It will

protect the interests of people in the neighborhood of coal mining operations. It will eliminate the depressing legacy of orphan lands. It will encourage the rational development of the industry.