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United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

April 11, 1975

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FILE
Strip Mining

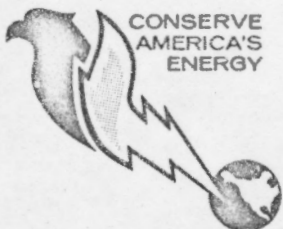
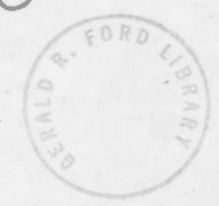
Memorandum

TO: Mr. Ron Peterson, OMB
FROM: Mr. Charles Markell, Legislative Office
THROUGH: Mr. Ken Brown, Legislative Counsel *Ken Brown*
SUBJECT: Surface Mining Control and Reclamation Act of 1975

Enclosed please find copies of the transmittal, forwarded today, to the Congress regarding the Administration's position on the Surface Mining Control and Reclamation Act of 1975.

CC: Assistant Secretary Roy Hughes
Assistant Secretary Jack Carlson
Mr. Bill Avery
Mr. Ed Green
Mr. Peter Ward
Mr. John Austin
Mr. Lou Pugliaresi
Mr. Jim Heffernan, FEA
Mr. Raymond Peck, Dept. of Treasury
Mr. Ken Wood, EPA
Mr. Steve Jellenik, CEQ
Mr. William Roundtree, Dept. of Commerce
Mr. E. F. Behrens, Dept. of Agriculture

Charles Markell



Save Energy and You Serve America!



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 11 1975

Honorable Paul Jones Fannin
United States Senate
Washington, D.C.

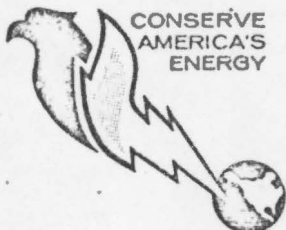
Dear Senator Fannin:

The enclosed material has been prepared in response to requests made by minority members for the Administration's position on a number of significant items in conference on the "Surface Mining Control and Reclamation Act of 1975."

Sincerely yours,

Ken M. Brown
Legislative Counsel

Enclosure



Save Energy and You Serve America!





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 11 1975

Honorable Joe Skubitz
House of Representatives
Washington, D.C.

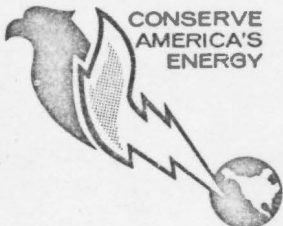
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Ken M. Brown
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Save Energy and You Serve America!



ADMINISTRATION POSITION

Surface Mining Control and Reclamation Act of 1975

Issues to be Resolved at Conference

1. Alluvial Valley Floors
2. State Program Requirements
3. Citizens Suits
4. Stream Siltation
5. Hydrological Disturbances
6. Replacement of Water Supply
7. Ambiguous Terms
8. Reclamation Fee
9. Impoundments
10. National Forests
11. Unemployment Assistance
12. Matching Grants
13. Interim Timing
14. Federal Preemption During Interim
15. Surface Owner Consent
16. Surface Owner Consent, Exploration
17. Delays, Designations as Unsuitable
18. New Criteria, Designations as Unsuitable
19. Federal Program, Designations as Unsuitable
20. Office of Surface Mining, Jurisdiction.
21. MESA Inspectors
22. NEPA Requirements
23. Variance Provisions
24. Preferential Contracting
25. Sales Requirements
26. Contract Authority
27. Underground Mining Limitation
28. Conflict of Interest
29. Indian Lands

ISSUE

PROHIBITION OF MINING ON ALLUVIAL VALLEY FLOORS

Administration
Position:

"(5) the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would not have a substantial adverse effect on the valley floors underlain by unconsolidated stream laid deposits where farming can be practiced in the form of flood irrigated or naturally subirrigated hay meadows or other crop lands (excluding undeveloped range lands), where such valley floors are significant to present farming or ranching operations."
[Section 410(b)(5)]

Senate Bill as
Passed:

(5) the proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would not have a substantial adverse effect on croplands or haylands overlying alluvial valley floors where such croplands or haylands are significant to the practice of farming or ranching operations.
[Section 510(e)(5)]

House Bill as
Passed:

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

(New: Added in
House floor →
debate)

"(A) not adversely affect, or be located within alluvial valley floors, underlain by unconsolidated stream-laid deposits where farming or ranching can be practiced on irrigated or naturally subirrigated hay-meadows, pasturelands, or croplands; or"

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

(C) not alter the channel of a significant water-course which is identified as a stream fed by (1) a spring, other ground-water discharge, or surface flow that flows an average of two hundred and fifty gallons per minute or more during one hundred and twenty days or more per year; and (2) a drainage area which encompasses ten thousand acres or more when measured above the lowest point of impact on the water-course by the proposed surface coal mining operation, as documented by the State or Federal regulatory authority.
[Section 510(b)(5)]

Proposed Status We should make a strong effort for Senate language.
 for Conference: New House language, could prohibit all surface
 mining in or around alluvial valley floors.

Rationale of
 Administration
 Position:

The House version appears to substantially preclude all surface mining operations in or around alluvial valley floors. The bill could be interpreted to preclude mining in the Powder River basin. Recent Bureau of Mines projections are that from 33 to 66 million tons of production could be lost from existing and planned operations in the first full year of implementation of the bill under the House version.

The Bill could lock-up from 32 to 65 billion tons of strippable reserves, or over 1/2 estimated strippable reserves.

The absolute requirements of 510(b)(5)(A) of the House bill go beyond the carefully drafted environmental protection standards of section 515(b)(10), which recognize that some limited minimal controlled hydrological damage may occur during and after the mining operation, and require the operator to minimize disturbances to the quality and quantity of water in surface and ground water systems and to avoid channel deepening or enlargement.

Alluvial valley floors in the Western States deserve special protection and extraordinary safeguards. These areas are the breadbaskets of the region. However, the House version, section 510(b)(5) is far too restrictive; moreover, the bill otherwise provides such safeguards.

ADMINISTRATION POSITION

2.

<u>ISSUE</u>	<u>REQUIREMENT THAT FEDERAL LANDS ADHERE TO STATE PROGRAM REQUIREMENTS</u>
Administration Position:	Would eliminate requirement. [Sec. 423(a)]
Senate Bill as Passed:	Adds language, "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." [Sec. 523(a)] In floor debate Senator Metcalf interpreted the provision to mean that State could prohibit Federal development of Federal lands.
House Bill as Passed:	Same language as Senate. [Sec. 523(a)] House has not taken same view on interpretation of language.
Proposed Status for Conference:	(1) Seek to delete last sentence of Sec. 523(a), quoted above. (2) Add sentence to Sec. 523(d), as follows: "Nor shall any approved State program be so construed or applied by the Secretary in regard to the Federal lands program as to constitute a prohibition of surface coal mining within the geographical perimeters of federally owned lands, unless such lands have been found by the Secretary to be unsuitable pursuant to Section 522."
Rationale for Administration Position:	Section 523(a) of S.7 and H.R. 25 should not be interpreted as providing for complete State control of surface coal mining of Federally-owned coal on Federal lands. Under the Administration's view Federal regulations promulgated by the Secretary of Interior would control the reclamation standards on Federal lands. The precedent of Federal control of Federal property should be sustained. States should not be permitted to dictate whether or not Federally-owned land shall be developed. In any event coal development will be controlled by the protections offered in the new law.

<u>ISSUE</u>	<u>CITIZENS SUITS</u>
Administration Position:	Would modify provisions so that suits against mine operators are authorized only where violations of regulations or permits are alleged. [Section 420]
Senate Bill as Passed:	Adopted administration position. [Section 520]
House Bill as Passed:	No changes from original version: would allow suits against operators for violations of the Act. [Section 520]
Proposed Status for Conference:	We should make every effort to have the Senate version adopted.
Rationale for Administration Position:	<p>The Administration agrees with the need for active citizen participation in the implementation of a surface mining control program. Citizen involvement will help assure that governmental actions are based upon complete information and are in compliance with the requirements of the Act.</p> <p>The Administration amendment would permit a suit to hold the mine operator accountable for violating requirements specifically applicable to him. The danger of permitting a suit against a mine operator for any violation of the Act is that he would be subject to suit where it is claimed that the regulations under which the operator is mining are not in accord with the Act.</p> <p>The whole concept of a permit is that it incorporates <u>all</u> of the requirements of the State or Federal regulations pertinent to the given mining operation, and, of course, in turn, the State or Federal regulations include <u>all</u> of the statutory requirements of the Act. It is fair to say, however, that past experience has demonstrated that regulatory agencies have not always properly interpreted the statutory mandates imposed on them by legislatures. But if a regulatory agency erroneously interprets and applies the law, the citizen suit ought to lie against the governmental agency and not against the operator who is complying in good faith with the terms of the permit.</p>

Extensive litigation of the many uncertain or ambiguous provisions of this new legislation could have serious production impacts. In such a situation, a citizen suit should be brought against the regulatory authority which is alleged to have improperly issued the regulation. If it is determined that the regulatory authority's action was not in accord with the law, the regulatory authority can correct its error through modification of regulations or permits.

The amendment does not in any way restrict a citizen's standing to sue in court. Section 520(d) permits the court to award litigation costs to the citizen, so we are not talking about throwing the citizen against the unlimited resources of the state. The amendment also does not restrict any rights of a citizen who is personally damaged as a result of surface coal mining operations.

The amendment also does not prevent a citizen suit directly against the operator if he is in violation of his permit or the regulations of the regulatory authority.

The amendment does not undercut the concept of citizen enforcement of the legislation, because in addition to citizen suits, ample opportunity for citizen involvement in promulgation of rules and regulations, approval of State programs, implementation of Federal programs, issuance and modification of permits, bond release, designation of lands unsuitable for mining, and mine inspections is provided.

ADMINISTRATION POSITION

4.

ISSUE

STREAM SILTATION

Administration
Position:

Would "prevent to the maximum extent practicable additional contributions of suspended solids. . . ." [Secs. 415(b)(10)(B) and 416(b)(9)(B)]

Senate Bill as
Passed:

Would "prevent to the maximum extent possible using the best available technology, additional contributions. . . ." [Secs. 515(b)(10)(B) and 516(b)(9)(B)]

House Bill as
Passed:

Would "prevent to the extent possible using the best technology currently available, additional. . . ." [Secs. 515(b)(10)(B) and 516(b)(9)(B)]

Proposed Status
for Conference:

House version is preferable, of the two. The language is still somewhat troublesome in that it is unclear whether "best technology" connotes commercial availability.

The Conference Committee should be urged to clarify that commercial availability was intended.

Rationale for
Administrative
Position:

To be sure that operations are not to be threatened with serious curtailments, then the statutory language must be interpreted to allow a certain degree of flexibility while still maintaining the environmental integrity of all watercourses which might be affected.

The Administration's view would accomplish this by preventing any increase in the level of sediment to the maximum extent practicable. [It should be noted that the suggested language to the "maximum extent practicable" is not intended to imply that the least expensive control measures would necessarily satisfy this requirement.]

The House version is preferable to the Senate's in that it provides for the best technology currently available. However, in either case strict interpretation of the House or Senate language presents obvious difficulties which could cause unnecessary production delays. The language should be clarified in legislative history to make it clear that "best technology" means commercially available. Note that House debate during mark-up indicated that commercial feasibility was intended.

At the present time there already exist effective means, such as diversion ditches and siltation ponds, which can be used to effectively control and reduce sediment outflow to a degree which would maintain the environmental integrity of existing watercourses.

<u>ISSUE</u>	<u>PROHIBITION AGAINST HYDROLOGICAL DISTURBANCES</u>
Administration Position:	Would include language "designed to the maximum extent practicable to prevent. . ." [Secs. 410(b)(3); 415(b)(10)(E)]
Senate Bill as Passed:	Uses language, designed "to prevent to the maximum extent possible using the best available technology. . ." [Secs. 510(b)(3); 515(b)(10)(F)]
House Bill as Passed:	Provides: ". . .designed to prevent irreparable offsite impacts to the hydrological balance. . ." [Sec. 510(b)(3)] and "preserving throughout the mining and reclamation process the hydrologic integrity. . ." [Sec. 515(b)(10)(F)]
Proposed Status for Conference:	We should opt for the Senate language in view of the absolute terminology of Sec. 510(b)(3) in H.R. 25. House language would be difficult to meet.

We need also to work for a definition of "best technology" that includes commercial availability.

Rationale for Administration Position:	The Administration's position dealing with restrictions on offsite impacts on hydrologic balance are designed to eliminate difficulties arising from the mandatory directive to "prevent" irreparable offsite impacts. Nearly all mining operations will have some unpreventable impact on the offsite hydrologic balance, however temporary or minute. While most of this impact can be controlled, some minor, long-term effect will probably result. The concern that this effect may be determined to be "irreparable" constitutes the basis for the Administration's position. If strictly interpreted the House provision could prevent the issuance of virtually any permit. The Senate version is preferable in that it says "to the maximum extent possible using the best available technology," but in any event "best technology" should be clarified through legislative history to make it certain that commercial availability is intended.
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ISSUE

REPLACEMENT OF WATER SUPPLY

Administration
Position:

No such provision.

Senate Bill as
Passed:

"(E) Replacing the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground source other than a subterranean stream channel where such supply has been affected by contamination, diminution, or interruption proximately resulting from mining;"
[Sec. 515(b)(10)(E)]

House Bill as
Passed:

Same as Senate.

In addition, section 717, an entirely new section added on the floor, requires that wherever it appears likely that a proposed mining operation will adversely affect the water supply, a permit application must either contain the consent of water rights owners or show a willingness and capability on the part of the applicant to provide substitute water.

Proposed Status
for Conference:

We should opt for the Senate water provisions, inasmuch as 717 is not included. In addition, with respect to 515(b)(10)(E) we should seek to add the word "substantially" before the word "affected," and/or seek to obtain some legislative history which shows an intention to require a substantial adverse effect on a user, rather than merely an effect on the water supply.

Rationale of
Administration:

Section 515(b)(10)(E) and particularly section 717 of H.R. 25 are overly burdensome and restrictive. The issue of water quality and quantity both on- and off-site are adequately dealt with in section 515(b)(10)(A) through (D). A mine operator will have to demonstrate his ability to comply with these requirements prior to obtaining a permit.

Requiring an operator to replace the water supply of offsite owners of water rights and to show written consent of all owners of water rights reasonably anticipated to be affected or to demonstrate the capability and willingness to provide substitute water supply at least equal in quality, quantity, and duration to the

affected water rights may be inconsistent with existing State law, could be administratively difficult to resolve, and could pose substantial problems of proof.

At a minimum the legislation should speak in terms of substantial effects on offsite water quality and quantity and provide for a money damages alternative in cases where that would provide substantial justice.

<u>ISSUE</u>	<u>DEFINING AMBIGUOUS TERMS</u>
Administration Position:	Would provide explicit authority in the bill for the Secretary to define ambiguous terms in the Act. (Section 601(b))
Senate Bill as passed:	Not adopted, but the Senate Report notes "that the Secretary has general rulemaking authority to define terms; the courts normally look to administrative interpretations of the law to resolve ambiguities."
House Bill as passed:	No provision
Proposed Status for Conference:	We should seek to obtain in Conference report language similar to, or reference to, Senate language.
Rationale for Administration position:	<p>H.R. 25 does not specifically provide the Secretary with the authority to define ambiguous terms in the Act. As those definitions are made in the course of implementing the Act there is a great potential for delays in implementation and resulting unnecessary or unanticipated production losses due to litigation over those definitions.</p> <p>Section 601(b) of the Administration bill would precisely establish that the purpose of developing clarifying definitions is to "provide greater certainty in implementing and administering" the legislation. This provision would be a clear indication to the courts that the interpretations of the Secretary should be given great weight and that the judgment of the court should not be substituted unless the Secretary's interpretation is unsupported by substantial evidence on the record, considered as a whole.</p>

ISSUE

RECLAMATION FEE

Administration
Position:

Would provide for a fee of 10¢ per ton on all coal mined.
[Sec. 301(d)]

Senate Bill as
Passed:

Would provide a tax of 35¢ per ton on surface mined coal, 25¢ per ton of underground coal, or 10% of the value of the coal at the mine, whichever is less. Unchanged from earlier position.
[Sec. 401(d)]

House Bill as
Passed:

Bill retained 35¢ tax on surface mined coal but was modified to reduce the tax on underground coal to 10¢ per ton; or 10% of value of the coal at the mine (5% for lignite) whichever is less.
[Sec. 401(d)]

Proposed Status
for Conference:

Should opt for the House version. (including credit to States for reclamation fees they charge.)

Rationale of
Administration
Position:

The Administration does not believe there is a proven need for the higher 25¢ and 35¢ a ton reclamation fee that would be levied under H.R. 25 to reclaim orphan lands. It is further believed that it is not good economic policy to extract needed cash from the consumer and the money supply, especially in times like the present, faster or in greater quantities than necessary.

The Bureau of Mines estimates that approximately 1,000,000 acres of orphan lands surface mined for coal now exist, mostly in the Appalachian region. However, not all of these acres are in need of reclamation. Approximately half of these acres have already stabilized and have assumed a timber and vegetation cover that is compatible to that area.

Additional factors will reduce the total acreage which will have to be reclaimed. The practice of mountain top mining on abandoned countour mining sites is now expanding. Such operations are economically attractive because of (1) improved machinery which now makes it feasible to remove the greater overburden, and (2) the availability of benches upon which to commence operations.

After the mountain top extraction process has been completed the abandoned high walls are eliminated and needed reclamation is accomplished in the process.

Based on estimates for 1975 production, 10¢ a ton could generate between \$60 and \$70 million dollars on an annualized basis. A doubling of production by 1985 will double receipts of this fund. To the extent that the amount of any such fee is passed on, it will increase the cost of energy and have at least a temporary inflationary effect. To the extent it is not passed on but absorbed by the producer, it will draw money from the economy and divert needed capital from needed future production. If experience establishes 10¢ does not generate a sufficient fund, Congress can subsequently increase the fee. During that interim period, a more accurate assessment of the acres to be reclaimed can also be made.

<u>ISSUE</u>	<u>MODIFY PROVISIONS ON IMPOUNDMENTS</u>
Administration Position:	" . . . structures are located so as to minimize danger to the health and safety of the public if failure should occur." [Secs. 415(b)(13); 416(b)(5)]
Senate Bill as Passed:	Adopted Administration language. [Secs. 515(b)(13); 516(b)(5)]
House Bill as Passed:	Entire supervision of "design, location, construction, operation, maintenance, and abandonment" of impoundments and refuse piles is given to the Army Corps of Engineers. [Secs. 515(b)(13); 516(b)(5)]
Proposed Status for Conference:	Seek adoption of Senate language; prior problem of absolute terms solved; provision regarding Corps of Engineers is a problem.
Rationale of Administration Position:	<p>It is the Administration's view that the requirements in subsection 515(b)(13), including the language, now adopted by the Senate, regarding the location of impoundments, present sound safeguards for the construction of impoundments without unduly restricting the placement of such structures.</p> <p>S. 7 retains language in subsection 515(b)(13) that imposes specific requirements that only the best engineering practices for design and construction be used in order to achieve the necessary stability with an adequate margin of safety to protect the health and safety of the public. It may also be noted that new regulations for waste impoundments to be promulgated by the Secretary of the Interior under the "Coal Mine Health and Safety Act of 1969" have now been formulated and are pending review of the final environmental impact statement before being published in the Federal Register. These regulations will offer strong safeguards for the construction of waste impoundments.</p> <p>The provision regarding the Corps of Engineers is preferable to the earlier absolute language but it would unnecessarily introduce confusion and duplication in administration. It would also increase costs and have the undesirable effect of introducing a new and additional agency into the role of supervising mining activities.</p>

ISSUE

MODIFY PROHIBITION AGAINST SURFACE
MINING IN NATIONAL FORESTS

Administration Position: Modified prohibition to permit waiver by Secretary when multiple resource analysis indicates that such mining would be in the public interest. [Section 422(e)(2)]

Senate Bill as Passed: No modification. [Section 522(e)(2)]

House Bill as Passed: No modification. [Section 522(e)(2)]

Proposed Status for Conference: Support Administration position.

Rationale for Administration Position: Section 422(e)(2) of the Administration bill would permit the Secretary of Agriculture to waive the surface coal mining ban in specific areas of the national forests "if after due consideration of the existing and potential multiple resource uses and values he determines such action to be in the public interest."

The waiver may only be made when the Secretary of Agriculture determines that it is in the public interest to do so, and surface coal mining so permitted would have to be done in full compliance with the high standards for mining and reclamation in the Act.

Without the discretionary waiver provisions in the Administration bill, the flat prohibition of surface coal mining in the national forest would be inconsistent with established multiple use principles, and 7 billion tons of coal reserves would unnecessarily be locked up for future use in meeting our national energy requirements. This 7 billion tons of coal reserves constitute about 30% of the uncommitted Federal surface-mineable coal in the contiguous States.

The Administration has no plans to lease surface mineable coal in the national forests, and the waiver provision of section 422(e)(2) in the Administration bill is not included in anticipation of coal leasing on those lands in the near future. However, it would be imprudent at this time to foreclose the possible development of surface mineable coal resources in the national forests when this coal could be mined in an environmentally sound manner consistent with established multiple use principles.

<u>ISSUE</u>	<u>UNEMPLOYMENT ASSISTANCE</u>
Administration Position:	Would delete provision relating to unemployment assistance.
Senate Bill as Passed:	Provides that Secretary of Labor may make grants to states "to provide cash benefits to any individual who loses his job in the coal mining industry as a direct result of the closure of a mine" due to the enforcement of the Act. [Sec. 709]
House Bill as Passed:	Adopted Administration position and deleted provisions.
Proposed Status for Conference:	Work for House approach; (note that House unemployment provision was dropped in mark-up at instance of former proponent of position, Mr. Seiberling, who stated that idea was original developed for earlier legislation and wasn't necessary here.)
Rationale for Administration Position:	The Administration would delete unemployment assistance for the reasons set forth below: <ul style="list-style-type: none">- It represents unfair discrimination between classes of unemployed.- The cause of unemployment could be difficult to determine and complicate administration of the Act.- The labor force attachment criteria are extremely weak.- The length of benefits is open-ended.- It would establish a very bad precedent -- other regulated industries would seek similar coverage.- It would be inconsistent with P.L. 93-567 and P.L. 93-572 which were signed into law on December 31, 1974, and which significantly broaden and lengthen general unemployment assistance.- Mining employment will undoubtedly increase with accelerated mining development.

MATCHING GRANTS TO STATES AND PRIVATE INDIVIDUALS
FOR RECLAMATION OF MINED LANDS

ISSUE

Administration
Position:

(1) Would provide for Federal-State cost sharing on acquisition and reclamation with maximum 50% Federal share and (2) would eliminate Federal cost sharing for private landowners.
[Title III]

Senate Bill as
Passed:

Provides for Federal cost sharing of up to 80% with private landowner for reclamation of rural lands, and for even larger % under certain circumstances; areas eligible increased from 30 acres to 100 acres; provides for up to 90% cost sharing with States for acquisition of abandoned and unclaimed lands.
[Title IV]

House Bill as
Passed:

Provides for up to 80% cost sharing with private landowners for reclamation, area eligible increased to 160 acres; up to 90% cost sharing for State acquisition program.
[Title IV]

Proposed Status
for Conference:

Continues to be a problem. Favor Administration position.

Rationale for
Administration
Position:

Amendments relating to reclamation of private lands and adjustments in the matching formula will further reduce the need for the higher fee.

(1) The amendment would reduce the matching formula in those instances where a grant is made to a state for purchase of acres to be reclaimed, the reclaiming of such acres and for the filling voids and sealing tunnels. S. 7 sets a 90% limit on the matching formula on the grants to states for purchase of lands to be reclaimed. This approaches total Federal funding of the acquisition, yet the reclaimed land remains in the ownership of the state. The Administration believes that the matching formula for purchase and reclaiming for lands owned by the states should be on a 50-50 basis. This will better assure that states receiving the benefits will have an active role in setting priorities for reclamation.

(2) The Administration opposes the use of funds to assist private landowners in reclaiming their lands mined in past years. Such a program would result in windfall gains to the private landowners who would maintain title to their lands while having them reclaimed at Federal expense.

<u>ISSUE</u>	<u>REVISE TIMING REQUIREMENTS FOR INTERIM PROGRAM TO MINIMIZE UNANTICIPATED DELAY</u>
Administration Position:	Timing requirements for interim program are tied to regulatory authority action, so as not to leave mine operators subject to close down due to administrative delays. [Sec. 402(a) and (b)]
Senate Bill as Passed:	Did not change with respect to interim compliance period of 135 days; adopted Administration position with respect to 30-month requirement for compliance with approved programs. [Secs. 502(a), (b) and (c)]
House Bill as Passed:	Same as Senate. [Secs. 502(a), (b) and (c)]
Proposed Status for Conference:	Interim period still a problem. Support Administration position.
Rationale for Administration Position:	The provisions of section 502 of both bills could potentially cause the closure of ongoing mining operations simply because of the failure of the regulatory authority to complete action on a mining permit and without fault of the mine operator. Section 502(a), (b) and (c), require new and existing operations to comply with the interim standards pursuant to mining permits issued within certain timeframes. However, no duty is imposed on the regulatory authority to issue such permits, and this is particularly troublesome for existing operations which must comply with the interim standards within 135 days from enactment. If the regulatory authority does not revise existing permits within 135 days it would appear that an operation could be forced to close down. The Administration position avoids this problem by triggering the time for compliance to the receipt of the amended permit. Particularly in the case of existing operations, the regulatory authority is required to review and amend existing permits within 60 days from date of enactment and the operation is then required to comply with the interim standards within 120 days from the date of issuance of such permit.

ISSUE

FEDERAL PREEMPTION OF STATE ROLE
DURING INTERIM PERIOD

Administration Position:	Would limit Federal enforcement role during interim period to situations which create imminent danger to public health and safety or significant environmental harm. [Secs. 402(b), 421]
Senate Bill as Passed:	No changes made; Senate report points out lack of state enforcement of its programs. [Secs. 502(b), 521]
House Bill as Passed:	No change made. [Secs. 502(b), 512]
Proposed Status for Conference:	Still a problem; note House committee report comment, "the intent of this provision is to place the Secretary in the role of monitoring State activity in the interim period and providing backup enforcement where appropriate." Should pursue adoption of position of this sort in Conference.
Rationale for Administration Position:	<p>The primary governmental responsibility for developing, authorizing, issuing, and enforcing a surface mining program should rest with the States, and the thrust of Federal surface mining legislation is to assist the States in developing and implementing a program which will achieve the purposes of the legislation. The States should be included in the regulatory and enforcement procedures at the earliest practical moment. A Federal interim enforcement program, such as provided in both Bills could lead to unnecessary Federal preemption, displacement or duplication of State regulatory activities, and discourage States from assuming an active permanent regulatory role, thus leaving such functions to the Federal Government. During the past few years, nearly all major coal mining States have improved their surface mining laws, regulations and enforcement activities.</p> <p>Under all 3 positions, the Secretary must implement an interim Federal program. S. 7 and H.R. 25 not only require periodic inspections for the purpose of ascertaining compliance with the interim performance standards, but also give the Secretary direct enforcement authority during the interim period. The Secretary's immediate enforcement powers under the Administration's position are limited to imminent danger situations. For other</p>

violations the Secretary is authorized to request the State regulatory authority to take the necessary enforcement actions. If the State fails to act within ten days, however, the Secretary may order the violations corrected.

The Administration position would fully utilize the existing State regulatory system, eliminate overlapping and duplicating authority to the extent possible, and encourage the timely establishment of permanent State programs.

<u>ISSUE</u>	<u>SURFACE OWNER CONSENT</u>
Administration Position:	Surface landowner and other property rights would continue to be governed under existing law. [Sec. 613]
Senate Bill as Passed:	Remains unchanged; Secretary shall give preference to leasing for underground mining to maximum extent practicable; where surface mining anticipated, Secretary must obtain written consent of surface owner, and applicant must pay surface owner the value of his interest. [Sec. 717]
House Bill as Passed:	Same provision as Senate version. [Sec. 714]
	House Bill amended on floor to add new Sec. 717, which requires that where a proposed mining operation is likely to affect water supply or quantity, the applicant for a permit must either get the written consent of owner of water rights or show capability to provide substitute water.
Proposed Status for Conference:	Should push for Administration position and deletion of House 717.
Rationale of Administration Position:	<p>The problems with Section 717 of S. 7 and 714 of H.R. 25 are multiple. The administrative burdens placed on the Secretary are numerous and complex to carry out. The impact these provisions would have on coal preference right holders could be substantial and they could result in significant windfall profits to holders of surface rights. Considerable expense would be added to Federal leasing and, in all probability, a vast amount of litigation would arise under acts mandated to the Secretary in S. 7. Further, this could lead to lock-up of needed coal. If a surface owner refuses to consent to permit mining on a tract of land that is in the path of an existing operation, not only could much coal be locked up, but an existing operation could be severely curtailed.</p> <p>The Administration objects to subsection (o) where a moratorium is imposed on the leasing of any coal deposits owned by the United States until February 1976 if the surface rights are not owned by the United States. This could unnecessarily defer the leasing of Federally owned coal and consequently could preclude the continued production from existing operations and prevent the start-up of new operations due to the inability to put together an economic surface mining unit.</p>

ISSUE

REQUIREMENT OF WRITTEN SURFACE OWNER CONSENT FOR
COAL EXPLORATION PERMITS

Administration Position:	No provision.
Senate Bill as Passed:	Requires statement by applicant of right by which he intends to pursue exploration, and certification that notice of intention to pursue exploration has been given to surface owner. [Sec. 512(b)(8)]
House Bill as Passed:	Requires written consent of surface owners.
Proposed Status for Conference:	Prefer Senate provision inasmuch as it would more readily facilitate exploration.
Rationale of Administration Position:	House provision could permit many frivolous obstructions and either delay or prevent exploration of coal-bearing lands. At the same time, the Senate version adequately protects surface owner rights under existing law.

<u>ISSUE</u>	<u>ELIMINATE DELAYS RELATING TO DESIGNATIONS AS UNSUITABLE FOR MINING</u>
Administration Position:	Would seek to assure that petitions for designating lands as unsuitable for mining are handled expeditiously, and provides for preliminary review of petition to avoid mining ban from frivolous petitions. [Sec. 410(b)(4); 422(c)]
Senate Bill as Passed:	Preliminary review not adopted. Adopted amendment which would require authority to render decision within 1 year, and if not done in 1 year, mining permits could be issued. [Secs. 510(b)(4); 522]
House Bill as Passed:	Does not adopt preliminary review. [Sec. 522]
Proposed Status for Conference:	Seek adoption of Administration position.
Rationale for Administration Position:	<p>Section 510(b)(4) of S. 7 prohibits the issuance of mining permits in areas which have been designated as unsuitable for mining or in areas which are being considered for designation as unsuitable. The existence of the petition mechanism of section 522(c) brings into motion the problem of banning mining in areas under consideration for designation as unsuitable. As drafted, a ban of mining could arise upon the filing of a petition. Frivolous petitions under section 522(c) could thus tie up extensive areas for long periods of time pending administrative and judicial resolutions of the question of unsuitability.</p> <p>The Administration view avoids this problem. The petition mechanism of section 422(c) provides that as soon as practicable after receipt of a petition, <u>the regulatory authority must review it to determine whether there is a substantial likelihood that the petition will be granted.</u> If the regulatory authority makes such a determination, it formally orders the area in question to be under study. Section 410(b)(4) of H.R. 3119 then specifically prohibits the issuance of permits in areas designated as unsuitable for mining or in areas under study for such designation. This mechanism fully and adequately protects against the improvident granting of permits to mine areas where mining is inappropriate.</p>

<u>ISSUE</u>	<u>NEW CRITERIA FOR DESIGNATING FEDERAL LANDS AS UNSUITABLE FOR MINING (other than coal)</u>
Administration Position:	No additional provision.
Senate Bill as Passed:	No additional provision.
House Bill as Passed:	Adds categories of lands which may be designated "unsuitable": "where mining operations could result in irreversible damage to important historic, cultural, scientific, or aesthetic values, or natural systems, of more than local significance, or could unreasonably endanger human life and property." [Sec. 601(b)(3)]
Proposed Status for Conference:	Prefer Senate version.
Rationale for Administration Position:	House provision difficult to interpret; wording is so broad and vague as to permit considerable uncertainty and almost unlimited possibilities for lands which may be proposed as unsuitable.

<u>ISSUE</u>	<u>FEDERAL PROGRAM REQUIREMENTS: DESIGNATED LANDS</u>
Administration Position:	No provision.
Senate Bill as Passed:	If a Federal program is implemented for a state the section dealing with designating lands unsuitable for mining shall not apply for a period of one year following the date of such implementation. [Sec. 504(a)(3)]
House Bill as Passed:	No such provision.
Proposed Status for Conference:	Senate provision desirable; provides flexibility for implementation of program.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT;
HOUSE PROVISION PLACING OFFICE UNDER ASSISTANT
SECRETARY, LAND AND WATER RESOURCES

ISSUE

Administration
Position:

No such provision.

Senate Bill as
Passed:

No such provision.

House Bill as
Passed:

Adopted floor amendment, proposed by Mr. Seiberling,
that would place Office of Surface Mining Reclamation
and Enforcement under the Assistant Secretary for
Land and Water Resources.
[Sec. 201]

Proposed Status
for Conference:

Support Administration position.

Rationale for
Administration
Position:

Discretion should be left in the Secretary to assign
responsibility to whichever Assistant Secretary he
deems most appropriate. The provision could lead
to unnecessary administrative confusion and
complexities and could prevent effective use of
existing expertise and resources.

ISSUE

PROHIBITION AGAINST HAVING MESA INSPECTORS ENFORCE
COMPLIANCE WITH ACT

Administration
Position:

No such provision.

Senate Bill
as Passed:

No such provision.

House Bill
as Passed:

Floor amendment offered by Hechler, and passed, provides: "(d) the Director shall not use either permanently or temporarily any person charged with responsibility of inspecting coal mines under the Federal Coal Mine Health and Safety Act of 1969, unless he finds, and publishes such finding in the Federal Register, that such person or persons are not needed for such inspections under the 1969 Act." [Sec. 201(d)]

Proposed Status
for Conference:

Prefer Senate bill.

Rationale for
Administrative
Position:

House amendment would require duplicate personnel and inspection visits, would complicate administration of inspections, would increase costs, and would not provide any substantial benefit. Overlap during the interim period may become necessary if the conditions of the bill are to be met in the short timeframe specified by the bill.

ISSUE

NEPA REQUIRED FOR FEDERAL AND
STATE PROGRAM PROMULGATION

Administration
Position:

No such requirement.

Senate Bill as
Passed:

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

House Bill as
Passed:

No such provision.

Proposed Status
for Conference:

Prefer House and Administration views.

Rationale for
Administration
Position:

The Administration believes that it is poor precedent to specifically provide that certain Federal actions are "major actions which significantly effect the environment." Experience under NEPA is now sufficiently extensive so that the Act can stand on its own without adding provisions in other bills either expanding NEPA or restricting it.

We prefer working within the present NEPA framework.

ISSUEMODIFY VARIANCE PROVISION FOR CERTAIN POSTMINING
USES AND EQUIPMENT SHORTAGES

Administration Position:	Would permit variances from certain performance standards of Sec. 415 in cases involving equipment shortages, and where equal or better economic or public use of the land is anticipated. [Sec. 402(d), 415(c)]
Senate Bill as Passed:	No changes in variance provision.
House Bill as Passed:	No changes.
Proposed Status for Conference:	Favor Administration position.
Rationale for Administration Position:	The equipment variance would only apply to the relatively short duration of the interim period. With the safeguards provided in section 402(d), the equipment variance is a reasonable measure permitting coal to be surface mined in an environmentally sound and approved manner while equipment is unavailable to the operator through no fault of his own. It must be remembered that there are serious backlogs of orders for heavy earth-moving equipment and that not all coal is surface mined with the same equipment used in the reclamation of mined land. For example, coal is often surface mined by draglines, shovels and trucks, whereas bulldozers are needed for return of the land to approximate original contour.

ISSUEPREFERENTIAL CONTRACTING

Administration Position:	Would not require that special preference be given in reclamation contracts to operators who lost their jobs because of the bill.
Senate Bill as Passed:	Requires "Preference for Persons Adversely Affected by the Act" in the award of reclamation contracts. [Sec. 708]
House Bill as Passed:	Adopted Administration's position; deleted preference provisions
Proposed Status for Conference:	Seek adoption of House version.
Rationale for Administrative Position:	Contracts should be awarded on merit and on competitive bidding. The Administration's view would permit the regulatory authority to award the contract on a bid basis as would be set out in regulations promulgated by the Secretary.

ISSUE

DELETE REQUIREMENT OF SALES OF COAL TO ANY CLASS
OF PURCHASERS UNDER FEDERAL LEASES

Administration
Position:

Contains no provision which would prohibit denial of sale to any class of purchasers.

Senate Bill as
Passed:

Requires that with respect to lessees, permittees, and contractors for U.S. owned coal, "no class of purchasers of the mined coal shall be unreasonably denied purchase thereof."
[Sec. 523(e)]

House Bill as
Passed:

Requires Secretary to assure in granting permits, leases or contracts for U.S. owned coal, "no class of purchasers shall be unreasonably denied purchase thereof."
[Sec. 523(e)]

Proposed Status
for Conference:

Favor House language.

Rationale of
Administration
Position:

The House version requires the Secretary not to deny coal to a class of purchasers when issuing leases. This is reasonable. However, the Senate version requires that federal coal after being mined can not be denied to a class of purchasers.

The Senate provision could interfere unnecessarily with both planned and existing coal mining operations particularly in integrated facilities.

<u>ISSUE</u>	<u>PROVIDE AUTHORITY FOR APPROPRIATIONS RATHER THAN CONTRACTING AUTHORITY</u>
Administration Position:	Would finance Administration of Act through direct appropriations. [Sec. 612]
Senate Bill as Passed:	For implementation of certain provisions, provide contracting authority in Secretary; as opposed to appropriation; Senate report notes that provision is deliberate with purpose of speeding implementation of Act without waiting for appropriation. [Sec. 715]
House Bill as Passed:	Identical to Senate. [Sec. 712]
Proposed Status for Conference:	Support Administration position.
Rationale for Administrative Position:	The Administration bill does not provide for such contract authority because such an approach is both unnecessary and inconsistent with Congressional Budget Reform and Impoundment Control Act. Under the Administration bill, such costs would be financed through direct appropriations and thus receive the full budget scrutiny that is necessary to assure the best use of our Federal resources.

<u>ISSUE</u>	<u>LIMITATION OF APPLICABILITY TO UNDERGROUND MINING</u>
Administration Position:	No provision.
Senate Bill as Passed:	No provision.
House Bill as Passed:	Adds provision that with respect to certain surface effects of underground mining, the provisions of section 515 shall apply, except that the Secretary may modify those requirements where necessary because of differences between surface and underground mining. [Sec. 516(b)(10)]
Proposed Status for Conference:	Desirable provision inasmuch as it clarifies application of section 515 to underground mining.

<u>ISSUE</u>	<u>CONFLICT OF INTEREST</u>
Administration Position:	No such provision.
Senate Bill as Passed:	No such provision.
House Bill as Passed:	Floor amendment to title II, proposed by Representative Dingell, was adopted, to the effect that no employee having any duties under the Act may own a direct or indirect financial interest in coal mining operations except that ownership of stock up to 100 shares, total, is permitted. Any such interest must be disclosed. A criminal penalty of up to \$2,500, or 1 year imprisonment is imposed for knowing violations.
Proposed Status for Conference:	To the extent that it reinforces existing conflict of interest prohibitions, it is a desirable provision; the 100-share exception is undesirable and should be deleted.
Rationale for Administration Position:	Conflicts of interest should be avoided. The 100-share exception does not appear to be consistent with the purpose of the amendment, and it could permit quite substantial holdings that present a direct conflict with an employee's official duties. By way of comparison, the Bureau of Mines and Geological Survey conflict of interest laws do not permit any ownership of stock or other interests where a conflict is present. Their policy is that any holding, much less one of 100 shares, is to be forbidden.

<u>ISSUE</u>	<u>INDIAN LANDS</u>
Administration Position:	Secretary administers program on Federal Indian lands and conducts study. [Secs. 601(a)(9) and 610]
Senate Bill as Passed:	Identical to Administration bill. [Secs. 701(a)(9) and 713]
House Bill as Passed:	Does not adopt Administration language [Sec. 701(a)(9)] and added <u>new title VI</u> , entire new Indian Lands Program which gives Indians option.
Proposed Status for Conference:	Favor Senate approach in its entirety.
Rationale of Administration Position:	<p>With respect to the question of definition of Indian Lands, the Senate version, which adopts the Administration position, is preferable in that it would eliminate the possibility of having the bill construed so as to require the Secretary to regulate non-Federal Indian lands.</p> <p>With respect to the much broader issue of the overall programs delineated in the respective bills, the Administration and Senate provisions are identical, and they provide for a study to determine the most beneficial regulatory scheme for Indian lands and Indian involvement; in addition they provide for interim regulatory requirements and timing deadlines for full imposition of the provisions of the Act.</p> <p>The House bill was amended on the floor to add an entirely new title VI, which propounds a program that not only includes the study provisions of the other bills, but also includes a more fully developed regulatory scheme, similar to that provided for the States, which delineates fully the scheme for Indian and Federal participation in enforcement of the Act. The Senate program is preferred by the Bureau of Indian Affairs, and by the majority of Indian groups polled on the subject for the reasons that it permits further study and additional time for the Indians to better assess the most suitable program and role for them to adopt; and it avoids the possibility of imposing upon the Indians at too early a time a program that may be more onerous than desirable. In addition, the House bill suffers from many important technical problems.</p>

This is a bill that has been worked on for 4 or 5 years. We have gone into this in three different Congresses, and by different people on both sides of the aisle, and we passed the bill and we want the bill to be passed again, and if we do then you will do the President a favor, you will do the country a favor, and you will do our land a favor—so I urge the Members to vote to override the veto.

The SPEAKER. Without objection, the previous question is ordered. There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 278, nays 143, answered "present" 1, not voting 12, as follows:

[Roll No. 275]

YEAS—278

- Abzug
- Adams
- Addabbo
- Albert
- Ambro
- Anderson
- Anderson, Calif.
- Anderson, Ill.
- Andrews, N. Dak.
- Annunzio
- Armstrong
- Ashley
- Aspin
- AuCoin
- Badillo
- Bafalis
- Baldus
- Barrett
- Baucus
- Beard, R.I.
- Bedell
- Bell
- Bennett
- Bergland
- Biestler
- Bingham
- Blanchard
- Blouin
- Boggs
- Boland
- Bolling
- Bonker
- Bowen
- Erademas
- Breckinridge
- Brinkley
- Brodhead
- Brooks
- Brown, Calif.
- Burke, Calif.
- Burke, Fla.
- Burke, Mass.
- Burison, Mo.
- Burton, John
- Burton, Phillip
- Carney
- Carr
- Chisholm
- Clausen, Don H.
- Clay
- Cohen
- Collins, Ill.
- Conte
- Corman
- Cornell
- Cotter
- Coughlin
- D'Amours
- Daniels, N.J.
- Danielson
- Delaney
- Dellums
- Dent
- Diggs
- Dingell
- Dodd
- Downey
- Drinan
- Duncan, Oreg.
- du Pont
- Early
- Eckhardt
- Edgar
- Edwards, Calif.
- Eilberg
- Emery
- Esch
- Evans, Colo.
- Evans, Ind.
- Fascell
- Fenwick
- Findley
- Fish
- Fisher
- Fithian
- Flood
- Florio
- Foley
- Ford, Mich.
- Ford, Tenn.
- Forsythe
- Frenzel
- Frey
- Fulton
- Fuqua
- Gaydos
- Gialimo
- Gibbons
- Gilman
- Goodling
- Green
- Gude
- Haley
- Hall
- Hamilton
- Hanley
- Hannaford
- Harkin
- Harrington
- Harris
- Hastings
- Hawkins
- Hayes, Ind.
- Hays, Ohio
- Heckler, Mass.
- Heinz
- Helstoski
- Henderson
- Hicks
- Holtzman
- Horton
- Howard
- Howe
- Hughes
- Hungate
- Jacobs
- Jeffords
- Johnson, Colo.
- Jordan
- Karsh
- Kasten
- Kastenmeier
- Keys
- Koch
- Krebs
- Krueger
- LaFalce
- Lagomarsino
- Leggett
- Lehman
- Levitas
- Litton
- Lloyd, Calif.
- Lloyd, Tenn.
- Long, La.
- Long, Md.
- McClory
- McCloskey
- McCormack
- McDade
- McFall
- McHugh
- McKay
- Macdonald
- Madden
- Maguire
- Matsunaga
- Mazzoli
- Meeds
- Melcher
- Metcalfe
- Meyner
- Mezvinsky
- Mikva
- Miller, Calif.
- Miller, Ohio
- Mineta
- Minish
- Mink
- Mitchell, Md.
- Moakley
- Moffett
- Moorhead, Calif.
- Moorhead, Pa.
- Morgan
- Mosher
- Moss
- Mottl
- Murphy, Ill.
- Murphy, N.Y.
- Murtha
- Myers, Pa.

- Natcher
- Neal
- Nedzi
- Nix
- Nolan
- Nowak
- Oberstar
- Obey
- O'Hara
- O'Neill
- Ottinger
- Passman
- Patten, N.J.
- Patterson, Calif.
- Pattison, N.Y.
- Pepper
- Perkins
- Pettis
- Peyster
- Pickle
- Pike
- Pressler
- Preyer
- Price
- Pritchard
- Quile
- Rallsback
- Rangel
- Rees
- Regula
- Reuss
- Richmond

- Riegle
- Rinaldo
- Roe
- Rogers
- Roncalio
- Rooney
- Rosenthal
- Roush
- Roybal
- Ruppe
- Russo
- Ryan
- St Germain
- Santini
- Sarasin
- Sarbanes
- Scheuer
- Schroeder
- Schulze
- Seiberling
- Sharp
- ShIPLEY
- Simon
- Sisk
- Smith, Iowa
- Solarz
- Spellman
- Staggers
- Stanton
- J. William Stanton
- James V. Stark

- Steelman
- Stokes
- Stuckey
- Studds
- Sullivan
- Symington
- Talcott
- Taylor, N.C.
- Thompson
- Traxler
- Tsongas
- Udall
- Ullman
- Van Deerlin
- Vander Veon
- Vanik
- Vigorito
- Waxman
- Weaver
- Whalen
- Whitten
- Wiggins
- Wilson, C. H.
- Wirth
- Wolff
- Wright
- Wylle
- Yates
- Yatron
- Young, Fla.
- Young, Ga.
- Zablocki
- Zerfetti

NAYS—143

- Abdnor
- Alexander
- Andrews, N.C.
- Archer
- Ashbrook
- Bauman
- Beard, Tenn.
- Bevill
- Blaggi
- Breaux
- Broomfield
- Brown, Mich.
- Brown, Ohio
- Broyhill
- Buchanan
- Burgener
- Burleson, Tex.
- Butler
- Byron
- Carter
- Casey
- Cederberg
- Chappell
- Clancy
- Clawson, Del.
- Cleveland
- Cochran
- Collins, Tex.
- Conable
- Conlan
- Crane
- Daniel, Dan
- Daniel, E. W.
- Davis
- de la Garza
- Derrick
- Derwinski
- Devine
- Dickinson
- Downing
- Duncan, Tenn.
- Edwards, Ala.
- English
- Erlenborn
- Eshleman
- Evins, Tenn.
- Flowers
- Fountain

- Ginn
- Goldwater
- Gradison
- Grassley
- Gayer
- Hagedorn
- Hammer
- Schmidt
- Harsha
- Hebert
- Hechler, W. Va.
- Hefner
- Hightower
- Hillis
- Hinshaw
- Holland
- Holt
- Hubbard
- Hutchinson
- Hyde
- Ichord
- Jarman
- Jenrette
- Johnson, Calif.
- Johnson, Pa.
- Jones, N.C.
- Jones, Okla.
- Kazen
- Kelly
- Kemp
- Ketchum
- Kindness
- Landrum
- Latta
- Lent
- Lott
- McCollister
- McDonald
- McEwen
- Madigan
- Mahon
- Mann
- Martin
- Mathis
- Michel
- Milford
- Mills
- Mitchell, N.Y.

- Montgomery
- Moore
- Myers, Ind.
- Nichols
- O'Brien
- Patman, Tex.
- Poage
- Quillen
- Randall
- Rhodes
- Risenhoover
- Roberts
- Robinson
- Rose
- Rousselot
- Runnels
- Satterfield
- Schneebeil
- Sebelius
- Shriver
- Shuster
- Sikes
- Skubitz
- Slack
- Smith, Nebr.
- Snyder
- Spence
- Steiger, Ariz.
- Steiger, Wis.
- Stephens
- Stratton
- Symms
- Taylor, Mo.
- Teague
- Thone
- Thornton
- Treen
- Vander Jagt
- Waggoner
- Walsh
- Wampler
- White
- Whitehurst
- Wilson, Bob
- Winn
- Wyder
- Young, Alaska
- Young, Tex.

ANSWERED "PRESENT"—1

Steed

NOT VOTING—12

- Conyers
- Flynt
- Gonzalez
- Hansen

- Jones, Ala.
- Jones, Tenn.
- Lujan
- McKinney

- Mollohan
- Rodino
- Rostenkowski
- Wilson, Tex.

Mr. STEED. Mr. Speaker, I have a live pair with the gentleman from New Jersey (Mr. ROBINO) and the gentleman from

Alabama (Mr. JONES): Had they been present, they both would have voted "aye." I voted "no."

Mr. Speaker, I therefore withdraw my no vote and vote present.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The Clerk announced the following pairs:

On this vote: Mr. Rodino and Mr. Jones of Alabama for, with Mr. Steed against.

Mr. Conyers and Mr. Rostenkowski for, with Mr. Flynt against.

Until further notice:

Mr. Gonzalez with Mr. Mollohan. Mr. Jones of Tennessee with Mr. Hansen. Mr. Charles Wilson of Texas with Mr. Lujan.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. MCKINNEY. Mr. Speaker, on roll-call No. 275 I inserted my card in the registry box, and pressed the button so as to vote "aye." The record shows that I am not recorded as voting.

I would like to have the record show that I voted "aye," and I would ask that my statement and explanation appear after rollcall No. 275.

The SPEAKER. The statement of the gentleman from Connecticut will appear in the RECORD.

RE-REFERRAL OF H.R. 4444, H.R. 6497, H.R. 7342, H.R. 7343, AND H.R. 7344 TO COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. REUSS. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Currency and Housing be discharged from the further consideration of the following bills, and that they be re-referred to the Committee on Interstate and Foreign Commerce: H.R. 4444, H.R. 6497, H.R. 7342, H.R. 7343, and H.R. 7344.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman from Wisconsin tell us what these bills are?

Mr. REUSS. Will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague from Wisconsin.

Mr. REUSS. These bills are bills relating to lead-based paint poisoning prevention. They were within the jurisdiction of the House Committee on Banking, Currency and Housing in days gone by. As a result of the action of the Select Committee on Committees, their jurisdiction has changed to that of the Committee on Interstate and Foreign Commerce.

94TH CONGRESS
1ST SESSION

H. R. 9725

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 1975

Mr. MELCHER (for himself, Mr. RONCALIO, Mr. STEELMAN, Mr. PHILLIP BURTON, Mr. VIGORITO, Mr. WEAVER, Mr. MILLER of California, and Mr. CARR) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

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.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Surface Mining Control
- 4 and Reclamation Act of 1975".

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Sec. 102. Purposes.

TITLE II—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Sec. 201. Creation of the Office.

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1 TITLE I—STATEMENT OF FINDINGS AND

2 POLICY

3 FINDINGS

4 SEC. 101. The Congress finds and declares that—

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

7 including surface mining;

8 (b) coal mining operations presently contribute
9 significantly to the Nation's energy requirements; sur-
10 face coal mining constitutes one method of extraction
11 of the resource; the overwhelming percentage of the
12 Nation's coal reserves can only be extracted by under-

1 ground mining methods, and it is, therefore, essential
 2 to the national interest to insure the existence of an ex-
 3 panding and economically healthy underground coal
 4 mining industry;

5 (c) many surface mining operations result in dis-
 6 turbances of surface areas that burden and adversely
 7 affect commerce and the public welfare by destroying
 8 or diminishing the utility of land for commercial, indus-
 9 trial, residential, recreational, agricultural, and forestry
 10 purposes, by causing erosion and landslides, by contrib-
 11 uting to floods, by polluting the water, by destroying
 12 fish and wildlife habitats, by impairing natural beauty,
 13 by damaging the property of citizens, by creating haz-
 14 ards dangerous to life and property by degrading the
 15 quality of life in local communities, and by counteracting
 16 governmental programs and efforts to conserve soil,
 17 water, and other natural resources;

18 (d) surface mining and reclamation technology are
 19 now developed so that effective and reasonable regula-
 20 tion of surface coal mining operations by the States and
 21 by the Federal Government in accordance with the re-
 22 quirements of this Act is an appropriate and necessary
 23 means to minimize so far as practicable the adverse so-
 24 cial, economic, and environmental effects of such mining
 25 operations;

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

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

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

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

23 (i) the cooperative effort established by this Act is
 24 necessary to prevent or mitigate adverse environmental

1 effects of present and future surface coal mining opera-
2 tions.

3 PURPOSES

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

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

9 (b) assure that the rights of surface landowners and
10 other persons with a legal interest in the land or ap-
11 purtenances thereto are fully protected from such opera-
12 tions;

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

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

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

21 (f) assure that the coal supply essential to the
22 Nation's energy requirements, and to its economic and
23 social well-being, is provided and strike a balance be-
24 tween protection of the environment and agricultural

1 productivity and the Nation's need for coal as an essen-
2 tial source of energy;

3 (g) assist the States in developing and implement-
4 ing a program to achieve the purposes of this Act;

5 (h) promote the reclamation of mined areas left
6 without adequate reclamation prior to the enactment of
7 this Act and which continue, in their unreclaimed con-
8 dition, to substantially degrade the quality of the environ-
9 ment, prevent or damage the beneficial use of land or
10 water resources, or endanger the health or safety of the
11 public;

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

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

20 (k) provide a means for development of the data
21 and analyses necessary to establish effective and reason-
22 able regulation of surface mining operations for other
23 minerals;

24 (l) stimulate, sponsor, provide for and/or supple-

1 ment present programs for the conduct of research in-
 2 vestigations, experiments, and demonstrations, in the
 3 exploration, extraction, processing, development, and
 4 production of minerals and the training of mineral en-
 5 gineers and scientists in the fields of mining, minerals
 6 resources, and technology, and the establishment of an
 7 appropriate research and training center in various
 8 States; and

9 (m) wherever necessary, exercise the full reach
 10 of Federal constitutional powers to insure the protection
 11 of the public interest through effective control of sur-
 12 face coal mining operations.

13 TITLE II—OFFICE OF SURFACE MINING

14 RECLAMATION AND ENFORCEMENT

15 CREATION OF THE OFFICE

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

19 (b) The Office shall have a Director who shall report
 20 directly to the Secretary and who shall be appointed by the
 21 President, by and with the advice and consent of the Senate,
 22 and shall be compensated at the rate provided for level IV
 23 of the Executive Schedule under section 5315 of title 5 of
 24 the United States Code, and such other employees as may
 25 be required. The Director shall have the responsibilities pro-

1 vided under subsection (c) of this section and those duties
 2 and responsibilities relating to the functions of the office
 3 which the Secretary may assign, consistent with this Act.
 4 Employees of the Office shall be recruited on the basis of
 5 their professional competence and capacity to administer
 6 the provisions of this Act. No legal authority, program, or
 7 function in any Federal agency which has as its purpose
 8 promoting the development or use of coal or other mineral
 9 resources or regulating the health and safety of miners under
 10 provisions of the Federal Coal Mine Health and Safety Act
 11 of 1969 (83 Stat. 742), shall be transferred to the Office.

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

13 (1) administer the programs for controlling surface
 14 coal mining operations which are required by this Act;
 15 review and approve or disapprove State programs for
 16 controlling surface coal mining operations; make those
 17 investigations and inspections necessary to insure com-
 18 pliance with this Act; conduct hearings, administer
 19 oaths, issue subpoenas, and compel the attendance of
 20 witnesses and production of written or printed material
 21 as provided for in this Act; issue cease-and-desist orders;
 22 review and vacate or modify or approve orders and de-
 23 cisions; and order the suspension, revocation, or with-
 24 holding of any permit for failure to comply with any of

1 the provisions of this Act or any rules and regulations
2 adopted pursuant thereto;

3 (2) publish and promulgate such rules and regula-
4 tions as may be necessary to carry out the purposes and
5 provisions of this Act;

6 (3) administer the State grant-in-aid program for
7 the development of State programs for surface coal min-
8 ing and reclamation operations provided for in title V
9 of this Act;

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

13 (5) administer the surface mining and reclama-
14 tion research and demonstration project authority pro-
15 vided for in this Act;

16 (6) consult with other agencies of the Federal
17 Government having expertise in the control and recla-
18 mation of surface mining operations and assist States,
19 local governments, and other eligible agencies in the
20 coordination of such programs;

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

23 (8) develop and maintain an Information and Data
24 Center on Surface Coal Mining, Reclamation, and Sur-
25 face Impacts of Underground Mining, which will make

1 such data available to the public and to Federal, region-
2 al, State, and local agencies conducting or concerned
3 with land use planning and agencies concerned with
4 surface and underground mining and reclamation
5 operations;

6 (9) assist the States in the development of State
7 programs for surface coal mining and reclamation opera-
8 tions which meet the requirements of the Act and, at the
9 same time, reflect local requirements and local environ-
10 mental and agricultural conditions;

11 (10) assist the States in developing objective scien-
12 tific criteria and appropriate procedures and institutions
13 for determining those areas of a State to be designated
14 unsuitable for all or certain types of surface coal mining
15 to section 522;

16 (11) monitor all Federal and State research pro-
17 grams dealing with coal extraction and use and recom-
18 mend to Congress the research and demonstration proj-
19 ects and necessary changes in public policy which are
20 designated to (A) improve feasibility of underground
21 coal mining, and (B) improve surface mining and rec-
22 lamation techniques directed at eliminating adverse en-
23 vironmental and social impacts; and

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

1 (d) The Director shall not use either permanently or
 2 temporarily any person charged with responsibility of in-
 3 specting coal mines under the Federal Coal Mine Health and
 4 Safety Act of 1969, unless he finds and publishes such find-
 5 ing in the Federal Register, that such activities would not
 6 interfere with such inspections under the 1969 Act.

7 (e) The Office shall be considered an independent Fed-
 8 eral regulatory agency for the purposes of sections 3502 and
 9 3512 of title 44 of the United States Code.

10 (f) No employee of the Office or any other Federal em-
 11 ployee performing any function or duty under this Act shall
 12 have a direct or indirect financial interest in underground or
 13 surface coal mining operations. Whoever knowingly violates
 14 the provisions of the above sentence shall, upon conviction, be
 15 punished by a fine of not more than \$2,500, or by imprison-
 16 ment for not more than one year, or both. The Director shall

17 (1) within sixty days after enactment of this Act publish
 18 regulations, in accordance with section 553 of title 5, United
 19 States Code, to establish the methods by which the provisions
 20 of this subsection will be monitored and enforced, including
 21 appropriate provisions for the filing by such employees and
 22 the review of statements and supplements thereto concerning
 23 their financial interests which may be affected by this sub-
 24 section, and (2) report to the Congress on March 1 of each

1 calendar year on the actions taken and not taken during the
 2 preceding calendar year under this subsection.

3 **TITLE III—STATE MINING AND MINERAL RE-**
 4 **SOURCES AND RESEARCH INSTITUTES**

5 **AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES**

6 **SEC. 301.** (a) There are authorized to be appropriated
 7 to the Secretary of the Interior sums adequate to provide
 8 for each participating State \$200,000 for fiscal year 1975,
 9 \$300,000 for fiscal year 1976, and \$400,000 for each fiscal
 10 year thereafter for five years, to assist the States in carrying
 11 on the work of a competent and qualified mining and mineral
 12 resources research institute, or center (hereinafter referred
 13 to as "institute") at one public college or university in the
 14 State which has in existence at the time of enactment of this
 15 title a school of mines, or division, or department conducting
 16 a program of substantial instruction and research in mining
 17 or minerals extraction or which establishes such a school of
 18 mines, or division, or department subsequent to the enact-
 19 ment of this title and which school of mines, or division or
 20 department shall have been in existence for at least two
 21 years. The Advisory Committee on Mining and Minerals
 22 Resources Research as created by this title shall determine
 23 a college or university to have an eligible school of mines,
 24 or division, or department conducting a program of sub-

1 substantial instruction and research in mining or minerals ex-
 2 traction wherein education and research in the minerals
 3 engineering fields are being carried out and wherein at least
 4 four full-time permanent faculty members are employed:

5 *Provided, That—*

6 (1) such moneys when appropriated shall be made
 7 available to match, on a dollar-for-dollar basis, non-
 8 Federal funds which shall be at least equal to the Federal
 9 share to support the institute;

10 (2) if there is more than one such eligible college
 11 or university in a State, funds under this title shall, in
 12 the absence of a designation to the contrary by act of
 13 the legislature of the State, be paid to one such college
 14 or university designated by the Governor of the State;
 15 and

16 (3) where a State does not have a public college or
 17 university with an eligible school of mines, or division,
 18 or department conducting a program of substantial in-
 19 struction and research in mining or mineral extraction,
 20 said advisory committee may allocate the State's allot-
 21 ment to one private college or university which it deter-
 22 mines to have an eligible school of mines, or division, or
 23 department as provided herein.

24 (b) It shall be the duty of each such institute to plan
 25 and conduct and/or arrange for a component or components

1 of the college or university with which it is affiliated to con-
 2 duct competent research, investigations, demonstrations, and
 3 experiments of either a basic or practical nature, or both, in
 4 relation to mining and mineral resources and to provide for
 5 the training of mineral engineers and scientists through such
 6 research, investigations, demonstrations, and experiments.
 7 Such research, investigations, demonstrations, experiments,
 8 and training may include, without being limited to: explora-
 9 tion; the extraction; processing; development; production of
 10 mineral resources; mining and mineral technology; supply
 11 and demand for minerals; conservation and best use of avail-
 12 able supplies of minerals; the economic, legal, social, engi-
 13 neering, recreational, biological, geographic, ecological, and
 14 other aspects of mining, mineral resources, and mineral rec-
 15 lamation, having due regard to the interrelation on the natu-
 16 ral environment, the varying conditions and needs of the re-
 17 spective States, to mining and mineral resources research
 18 projects being conducted by agencies of the Federal and State
 19 governments, and other institutes.

20 RESEARCH FUNDS TO INSTITUTES

21 SEC. 302. (a) There is authorized to be appropriated
 22 annually for seven years to the Secretary of the Interior
 23 the sum of \$15,000,000 in fiscal year 1975, said sum in-
 24 creased by \$2,000,000 each fiscal year thereafter for six
 25 years, which shall remain available until expended. Such

1 moneys when appropriated shall be made available to insti-
2 tutes to meet the necessary expenses for purposes of:

3 (1) specific mineral research and demonstration
4 projects of industrywide application, which could not
5 otherwise be undertaken, including the expenses of plan-
6 ning and coordinating regional mining and mineral re-
7 sources research projects by two or more institutes,
8 and

9 (2) research into any aspects of mining and mineral
10 resources problems related to the mission of the Depart-
11 ment of the Interior, which may be deemed desirable
12 and are not otherwise being studied.

13 (b) Each application for a grant pursuant to subsection
14 (a) of this section shall, among other things, state the na-
15 ture of the project to be undertaken, the period during which
16 it will be pursued, the qualifications of the personnel who will
17 direct and conduct it, the estimated costs, the importance
18 of the project to the Nation, region, or State concerned, and
19 its relation to other known research projects theretofore pur-
20 sued or being pursued, and the extent to which it will pro-
21 vide opportunity for the training of mining and mineral engi-
22 neers and scientists, and the extent of participation by non-
23 governmental sources in the project.

24 (c) The Secretary shall, insofar as it is practicable,
25 utilize the facilities of institutes designated in section 301

1 of this title to perform such special research, authorized by
2 this section, and shall select the institutes for the perform-
3 ance of such special research on the basis of the qualifications
4 without regard to race or sex of the personnel who will
5 conduct and direct it, and on the basis of the facilities avail-
6 able in relation to the particular needs of the research proj-
7 ect, special geographic, geologic, or climatic conditions with-
8 in the immediate vicinity of the institute in relation to any
9 special requirements of the research project, and the extent
10 to which it will provide opportunity for training individuals
11 as mineral engineers and scientists. The Secretary may des-
12 ignate and utilize such portions of the funds authorized to be
13 appropriated by this section as he deems appropriate for the
14 purpose of providing scholarships, graduate fellowships, and
15 postdoctoral fellowships.

16 (d) No grant shall be made under subsection (a) of
17 this section except for a project approved by the Secretary
18 of the Interior and all grants shall be made upon the basis
19 of merit of the project, the need for the knowledge which it
20 is expected to produce when completed, and the opportunity
21 it provides for the training of individuals as mineral engineers
22 and scientists.

23 (e) No portion of any grant under this section shall be
24 applied to the acquisition by purchase or lease of any land

1 or interests therein or the rental, purchase, construction,
2 preservation, or repair of any building.

3 FUNDING CRITERIA

4 SEC. 303. (a) Sums available to institutes under the
5 terms of sections 301 and 302 of this title shall be paid at
6 such times and in such amounts during each fiscal year as
7 determined by the Secretary, and upon vouchers approved
8 by him. Each institute shall set forth its plan to provide for
9 the training of individuals as mineral engineers and scien-
10 tists under a curriculum appropriate to the field of mineral
11 resources and mineral engineering and related fields; set
12 forth policies and procedures which assure that Federal funds
13 made available under this title for any fiscal year will sup-
14 plement and, to the extent practicable, increase the level of
15 funds that would, in the absence of such Federal funds, be
16 made available for purposes of this title, and in no case sup-
17 plant such funds; have an officer appointed by its governing
18 authority who shall receive and account for all funds paid
19 under the provisions of this title and shall make an annual
20 report to the Secretary on or before the first day of Septem-
21 ber of each year, on work accomplished and the status of
22 projects underway, together with a detailed statement of the
23 amounts received under any provisions of this title during
24 the preceding fiscal year, and of its disbursements on sched-
25 ules prescribed by the Secretary. If any of the moneys re-

1 ceived by the authorized receiving officer of any institute
2 under the provisions of this title shall by any action or con-
3 tingency be found by the Secretary to have been improperly
4 diminished, lost, or misapplied, it shall be replaced by the
5 State concerned and until so replaced no subsequent appro-
6 priation shall be allotted or paid to any institute of such
7 State.

8 (b) Moneys appropriated pursuant to this title shall be
9 available for expenses for research, investigations, experi-
10 ments, and training conducted under authority of this title.
11 The institutes are hereby authorized and encouraged to plan
12 and conduct programs under this title in cooperation with
13 each other and with such other agencies and individuals as
14 may contribute to the solution of the mining and mineral
15 resources problems involved, and moneys appropriated
16 pursuant to this title shall be available for paying the neces-
17 sary expenses of planning, coordinating, and conducting such
18 cooperative research.

19 DUTIES OF THE SECRETARY

20 SEC. 304. (a) The Secretary of the Interior is hereby
21 charged with the responsibility for the proper administra-
22 tion of this title and, after full consultation with other inter-
23 ested Federal agencies, shall prescribe such rules and regula-
24 tions as may be necessary to carry out its provisions. The
25 Secretary shall furnish such advice and assistance as will

1 best promote the purposes of this title, participate in coordi-
 2 nating research initiated under this title by the institutes, indi-
 3 cate to them such lines of inquiry as to him seem most im-
 4 portant, and encourage and assist in the establishment and
 5 maintenance of cooperation by and between the institutes
 6 and between them and other research organizations, the
 7 United States Department of the Interior, and other Federal
 8 establishments.

9 (b) On or before the 1st day of July in each year
 10 after the passage of this title, the Secretary shall ascertain
 11 whether the requirements of section 303 (a) have been
 12 met as to each institute and State.

13 (c) The Secretary shall make an annual report to the
 14 Congress of the receipts, expenditures, and work of the
 15 institutes in all States under the provisions of this title. The
 16 Secretary's report shall indicate whether any portion of an
 17 appropriation available for allotment to any State has been
 18 withheld and, if so, the reasons therefor.

19 AUTONOMY

20 SEC. 305. Nothing in this title shall be construed to
 21 impair or modify the legal relationship existing between
 22 any of the colleges or universities under whose direction an
 23 institute is established and the government of the State in
 24 which it is located, and nothing in this title shall in any way

1 be construed to authorize Federal control or direction of
 2 education at any college or university.

3 MISCELLANEOUS PROVISIONS

4 SEC. 306. (a) The Secretary of the Interior shall ob-
 5 tain the continuing advice and cooperation of all agencies
 6 of the Federal Government concerned with mining and
 7 mineral resources, of State and local governments, and of
 8 private institutions and individuals to assure that the pro-
 9 grams authorized in this title will supplement and not dupli-
 10 cate established mining and minerals research programs, to
 11 stimulate research in otherwise neglected areas, and to con-
 12 tribute to a comprehensive nationwide program of mining
 13 and minerals research, having due regard for the protection
 14 and conservation of the environment. The Secretary shall
 15 make generally available information and reports on proj-
 16 ects completed, in progress, or planned under the provisions
 17 of this title, in addition to any direct publication of informa-
 18 tion by the institutes themselves.

19 (b) Nothing in this title is intended to give or shall
 20 be construed as giving the Secretary of the Interior any au-
 21 thority over mining and mineral resources research conducted
 22 by any other agency of the Federal Government, or as
 23 repealing, superseding, or diminishing existing authorities or
 24 responsibilities of any agency of the Federal Government to

1 plan and conduct, contract for, or assist in research in its area
2 of responsibility and concern with mining and mineral
3 resources.

4 (c) Contracts or other arrangements for mining and
5 mineral resources research work authorized under this title
6 with an institute, educational institution, or nonprofit orga-
7 nization may be undertaken without regard to the provisions
8 of section 3684 of the Revised Statutes (31 U.S.C. 529)
9 when, in the judgment of the Secretary of the Interior, ad-
10 vance payments of initial expense are necessary to facilitate
11 such work.

12 (d) No research, demonstration, or experiment shall be
13 carried out under this Act by an institute financed by grants
14 under this Act unless all uses, products, processes, patents,
15 and other developments resulting therefrom, with such excep-
16 tion or limitation, if any, as the Secretary may find neces-
17 sary in the public interest, be available promptly to the
18 general public. Nothing contained in this section shall deprive
19 the owner of any background patent relating to any such
20 activities of any rights which that owner may have under
21 that patent. There are authorized to be appropriated such
22 sums as are necessary for the printing and publishing of the
23 results of activities carried out by institutes under the provi-
24 sions of this Act and for administrative planning and direc-

1 tion, but such appropriations shall not exceed \$1,000,000 in
2 any fiscal year.

3 CENTER FOR CATALOGING

4 SEC. 307. The Secretary shall establish a center for
5 cataloging current and projected scientific research in all
6 fields of mining and mineral resources. Each Federal agency
7 doing mining and mineral resources research shall cooperate
8 by providing the cataloging center with information on
9 work underway or scheduled by it. The cataloging center
10 shall classify and maintain for public use a catalog of mining
11 and mineral resources research and investigation projects
12 in progress or scheduled by all Federal agencies and by
13 such non-Federal agencies of Government, colleges, uni-
14 versities, private institutions, firms and individuals as may
15 make such information available.

16 INTERAGENCY COOPERATION

17 SEC. 308. The President shall, by such means as he
18 deems appropriate, clarify agency responsibility for Federal
19 mining and mineral resources research and provide for inter-
20 agency coordination of such research, including the re-
21 search authorized by this title. Such coordination shall
22 include—

23 (a) continuing review of the adequacy of the Gov-

1 ernment-wide program in mining and mineral resources
2 research;

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

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

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

9 (e) review of technical manpower needs and find-
10 ings concerning management policies to improve the
11 quality of the Government-wide research effort; and

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

14 ADVISORY COMMITTEE

15 SEC. 309. (a) The Secretary of the Interior shall ap-
16 point an Advisory Committee on Mining and Mineral Re-
17 search composed of—

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

20 (2) the Director of the National Science Founda-
21 tion, or his delegate, with his consent;

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

24 (4) the President, National Academy of Engineer-
25 ing, or his delegate, with his consent;

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

3 (6) not more than four other persons who are
4 knowledgeable in the fields of mining and mineral re-
5 sources research, at least one of whom shall be a repre-
6 sentative of working coal miners.

7 (b) The Secretary shall designate the Chairman of the
8 Advisory Committee. The Advisory Committee shall consult
9 with, and make recommendations to, the Secretary of the
10 Interior on all matters involving or relating to mining and
11 mineral resources research and such determinations as pro-
12 vided in this title. The Secretary of the Interior shall consult
13 with, and consider recommendations of, such Committee in
14 the conduct of mining and mineral resources research and
15 the making of any grant under this title.

16 (c) Advisory Committee members, other than officers
17 or employees of Federal, State, or local governments, shall
18 be, for each day (including traveltime) during which they
19 are performing committee business, entitled to receive com-
20 pensation at a rate fixed by the Secretary, but not in excess
21 of the maximum rate of pay for grade GS-18 as provided in
22 the General Schedule under section 5332 of title 5 of the
23 United States Code, and shall, notwithstanding the limita-
24 tions of sections 5703 and 5704 of title 5, United States

1 Code, be fully reimbursed for travel, subsistence, and related
2 expenses.

3 TITLE IV—ABANDONED MINE RECLAMATION

4 ABANDONED MINE RECLAMATION FUND

5 SEC. 401. (a) There is created on the books of the
6 Treasury of the United States a trust fund to be known as
7 the Abandoned Mine Reclamation Fund (hereinafter re-
8 ferred to as the "fund") which shall be administered by the
9 Secretary of the Interior.

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

12 (1) the sale, lease, or rental of land reclaimed pur-
13 suant to this title;

14 (2) any user charge imposed on or for land re-
15 claimed pursuant to this title, after expenditures for
16 maintenance have been deducted; and

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

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

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

6 (d) All operators of coal mining operations subject to
7 the provisions of this Act shall pay to the Secretary of the
8 Interior, for deposit in the fund, a reclamation fee of 35
9 cents per ton of coal produced by surface coal mining and 15
10 cents per ton of coal produced by underground mining or
11 10 per centum of the value of the coal at the mine, as
12 determined by the Secretary, whichever is less except that
13 this reclamation fee for lignite coal shall be at a rate of 5
14 per centum of the value of the coal at the mine, or 35 cents
15 per ton, whichever is less. Such fee shall be paid no later
16 than thirty days after the end of each calendar quarter
17 beginning with the first calendar quarter occurring after
18 January 1, 1977, and ending fifteen years after the date
19 of enactment of this Act unless extended by an Act of
20 Congress.

21 (e) The geographic allocation of expenditures from
22 the fund shall reflect both the area from which the revenue
23 was derived as well as the program needs for the funds.
24 Fifty per centum of the funds collected annually in any State
25 or Indian reservation shall be expended in that State or

1 Indian reservation by the Secretary to accomplish the pur-
 2 poses of this title after receiving and considering the recom-
 3 mendations of the Governor of that State or the head of
 4 the governing body of that tribe having jurisdiction over
 5 that reservation, as the case may be: *Provided, however,*
 6 That if such funds have not been expended within three
 7 years after being paid into the fund, they shall be available
 8 for expenditure in any area. The balance of funds collected
 9 on an annual basis may be expended in any area at the
 10 discretion of the Secretary in order to meet the purposes of
 11 this title.

12 OBJECTIVES OF FUND

13 SEC. 402. The primary objective for the obligation of
 14 funds is the reclamation of areas affected by previous min-
 15 ing; but other objectives shall reflect the following priorities
 16 in the order stated:

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

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

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

24 (d) the improvement of lands and water to a suit-

1 able condition useful in the economic and social develop-
 2 ment of the area affected; and

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

7 ELIGIBLE LANDS

8 SEC. 403. The only lands eligible for reclamation ex-
 9 penditures under this title are those which were mined for
 10 coal or which were affected by such mining, wastebanks, coal
 11 processing, or other coal mining processes, and abandoned
 12 or left in an inadequate reclamation status prior to the date
 13 of enactment of this Act, and for which there is no continu-
 14 ing reclamation responsibility under State or other Federal
 15 laws.

16 RECLAMATION OF RURAL LANDS

17 SEC. 404. (a) In order to provide for the control
 18 and prevention of erosion and sediment damages from un-
 19 reclaimed mined lands, and to promote the conservation
 20 and development of soil and water resources of unreclaimed
 21 mined lands and lands affected by mining, the Secretary
 22 of Agriculture is authorized to enter into agreements, of not
 23 more than ten years with landowners (including owners of
 24 water rights) residents and tenants, and individually or

1 collectively, determined by him to have control for the
 2 period of the agreement of lands in question therein, pro-
 3 viding for land stabilization, erosion, and sediment control,
 4 and reclamation through conservation treatment, including
 5 measures for the conservation and development of soil, water
 6 (excluding stream channelization), woodland, wildlife, and
 7 recreation resources, and agricultural productivity of such
 8 lands. Such agreements shall be made by the Secretary
 9 with the owners, including owners of water rights, residents,
 10 or tenants (collectively or individually) of the lands in
 11 question.

12 (b) The landowner, including the owner of water
 13 rights, resident, or tenant shall furnish to the Secretary of
 14 Agriculture a conservation and development plan setting
 15 forth the proposed land uses and conservation treatment
 16 which shall be mutually agreed by the Secretary of Agri-
 17 culture and the landowner, including owner of water rights,
 18 resident, or tenant to be needed on the lands for which
 19 the plan was prepared. In those instances where it is de-
 20 termined that the water rights or water supply of a tenant,
 21 landowner, including owner of water rights, residents, or
 22 tenant have been adversely affected by a surface or under-
 23 ground coal mine operation which has removed or dis-
 24 turbed a stratum so as to significantly affect the hydro-
 25 logic balance, such plan may include proposed measures

1 to enhance water quality or quantity by means of joint
 2 action with other affected landowners, including owner of
 3 water rights, residents, or tenants in consultation with ap-
 4 propriate State and Federal agencies.

5 (c) Such plan shall be incorporated in an agreement
 6 under which the landowner, including owner of water rights,
 7 resident, or tenant shall agree with the Secretary of Agricul-
 8 ture to effect the land uses and conservation treatment pro-
 9 vided for in such plan on the lands described in the agree-
 10 ment in accordance with the terms and conditions thereof.

11 (d) In return for such agreement by the landowner,
 12 including owner of water rights, resident, or tenant the Secre-
 13 tary of Agriculture is authorized to furnish financial and other
 14 assistance to such landowner, including owner of water rights,
 15 resident, or tenant in such amounts and subject to such con-
 16 ditions as the Secretary of Agriculture determines are appro-
 17 priate and in the public interest for carrying out the land use
 18 and conservation treatment set forth in the agreement.
 19 Grants made under this section, depending on the income-
 20 producing potential of the land after reclaiming, shall provide
 21 up to 80 per centum of the cost of carrying out such land uses
 22 and conservation treatment on not more than one hundred
 23 and twenty acres of land occupied by such owner including
 24 water rights owners, resident or tenant, or on not more than
 25 one hundred and twenty acres of land which has been pur-

1 chased jointly by such landowners including water rights
 2 owners, residents, or tenants under an agreement for the en-
 3 hancement of water quality or quantity or on land which has
 4 been acquired by an appropriate State or local agency for the
 5 purpose of implementing such agreement; except the Secre-
 6 tary may reduce the matching cost share where he deter-
 7 mines that (1) the main benefits to be derived from the
 8 project are related to improving off-site water quality, off-site
 9 esthetic values, or other off-site benefits, and (2) the match-
 10 ing share requirement would place a burden on the landowner
 11 which would probably prevent him from participating in the
 12 program.

13 (e) The Secretary of Agriculture may terminate any
 14 agreement with a landowner including water rights owners,
 15 operator, or occupier by mutual agreement if the Secre-
 16 tary of Agriculture determines that such termination would
 17 be in the public interest, and may agree to such modification
 18 of agreements previously entered into hereunder as he deems
 19 desirable to carry out the purposes of this section or to
 20 facilitate the practical administration of the program au-
 21 thorized herein.

22 (f) Notwithstanding any other provision of law, the
 23 Secretary of Agriculture, to the extent he deems it desirable
 24 to carry out the purposes of this section, may provide in any
 25 agreement hereunder for (1) preservation for a period not

1 to exceed the period covered by the agreement and an
 2 equal period thereafter of the cropland, crop acreage, and
 3 allotment history applicable to land covered by the agree-
 4 ment for the purpose of any Federal program under which
 5 such history is used as a basis for an allotment or other
 6 limitation on the production of such crop; or (2) surrender
 7 of any such history and allotments.

8 (g) The Secretary of Agriculture shall be authorized to
 9 issue such rules and regulations as he determines are neces-
 10 sary to carry out the provisions of this section.

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

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

17 ACQUISITION AND RECLAMATION OF ABANDONED AND
 18 UNRECLAIMED MINED LANDS

19 SEC. 405. (a) (1) The Congress declares that the recla-
 20 mation and, if necessary, acquisition of any interest in land
 21 or mineral rights in order to eliminate hazards to the environ-
 22 ment or to the health or safety of the public from mined
 23 lands, or to construct, operate, or manage reclamation facili-
 24 ties and projects constitutes for the purposes of this title
 25 reclamation and, if necessary, acquisition for a public use or

1 purpose, notwithstanding that the Secretary plans to hold
2 the interest in land or mineral rights so reclaimed or acquired
3 as an open space or for recreation, or to resell, if acquired,
4 the land following completion of the reclamation facility or
5 project.

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

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

1 provided in the eminent domain code or similar such legisla-
2 tion, to be the increase in the market value of the land as a
3 result of the corrections of the condition immediately the
4 Secretary, or appropriate regulatory authority, has com-
5 pleted work, and the lien shall extend only to that portion of
6 the premises directly involved in the work of the Secretary
7 pursuant to this Act.

8 (4) If the Secretary, or the appropriate regulatory
9 authority pursuant to an approved State program, makes
10 a finding of fact that (1) a mine fire, refuse bank fire,
11 stream pollution, or subsidence resulting from coal mining
12 operations is at a stage where, in the public interest, im-
13 mediate action should be taken; and (2) the owner or
14 owners of the property upon which entry must be made to
15 combat the mine fire, refuse bank fire, stream pollution, or
16 subsidence resulting from coal mining operations, are not
17 known, are not readily available, or will not give permis-
18 sion for the Secretary, political subdivisions of the State
19 or municipalities, their agents, employees, or contractors to
20 enter upon such premises, then, upon giving notice by mail
21 to the owner or owners, if known, or if not known, by
22 posting notice upon the premises and advertising in a news-
23 paper of general circulation in the area in which the land lies,
24 the Secretary, political subdivisions of the State or munici-
25 palities, their agents, employees, or contractors shall have

1 a right to enter upon the premises and any other land in
 2 order to have access to the premises to combat the mine
 3 fire, refuse bank fire, stream pollution, or subsidence re-
 4 sulting from coal mining operations and do all things neces-
 5 sary and expedient to do so. Such entry shall not be con-
 6 strued as an act of condemnation of property or of trespass
 7 thereof. The moneys expended for such work and the
 8 benefits accruing to any such premises entered upon shall
 9 be chargeable against such lands and shall mitigate or off-
 10 set any claim in or any action brought by any owner of
 11 any interest in such premises for any alleged damages by
 12 virtue of such entry: *Provided, however,* That this provision
 13 is not intended to create new rights of action or eliminate
 14 existing immunities.

15 (5) States are encouraged as part of their approved
 16 State programs, to reclaim abandoned and unreclaimed
 17 mined lands within their boundaries and, if necessary, to
 18 acquire or to transfer such lands to the Secretary or the
 19 appropriate State regulatory authority under appropriate
 20 Federal regulations. The Secretary is authorized to make
 21 grants on a matching basis to States in such amounts as he
 22 deems appropriate for the purpose of carrying out the pro-
 23 visions of this title but in no event shall any grant exceed
 24 90 per centum of the cost of acquisition of the lands for
 25 which the grant is made. When a State has made any such

1 land available to the Federal Government under this title,
 2 such State shall have a preference right to purchase such
 3 lands after reclamation at fair market value less the State
 4 portion of the original acquisition price. Notwithstanding
 5 the provisions of paragraph (1) of this subsection, re-
 6 claimed land may be sold to the State or local government
 7 in which it is located at a price less than fair market value,
 8 which in no case shall be less than the cost to the United
 9 States of the purchase and reclamation of the land, as nego-
 10 tiated by the Secretary, to be used for a valid public
 11 purpose. If any land sold to a State or local government
 12 under this paragraph is not used for a valid public pur-
 13 pose as specified by the Secretary in the terms of the
 14 sales agreement then all right, title, and interest in such
 15 land shall revert to the United States. Money received
 16 from such sale shall be deposited in the fund.

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

24 (7) In selecting lands to be acquired pursuant to this
 25 section and in formulating regulations for the making of

1 grants to the States to acquire lands pursuant to this title,
 2 the Secretary shall give priority to lands in their unreclaimed
 3 state which will meet the objectives as stated in section 402
 4 above when reclaimed. For those lands which are reclaimed
 5 for public recreational use, the revenue derived from such
 6 lands shall be used first to assure proper maintenance of
 7 such funds and facilities thereon and any remaining moneys
 8 shall be deposited in the funds.

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

21 (9) The Secretary shall hold a public hearing, with the
 22 appropriate notice, in the county or counties or the appro-
 23 priate subdivisions of the State in which lands acquired to be
 24 reclaimed pursuant to this title are located. The hearings
 25 shall be held at a time which shall afford local citizens and

1 governments the maximum opportunity to participate in the
 2 decision concerning the use of the lands once reclaimed.

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

13 (b) (1) The Secretary is authorized to use money in the
 14 fund to acquire, reclaim, develop, and transfer land to any
 15 State, or any department, agency, or instrumentality of a
 16 State or of a political subdivision thereof, or to any person,
 17 firm, association, or corporation if he determines that such is
 18 an integral and necessary element of an economically feasi-
 19 ble plan for a project to construct or rehabilitate housing for
 20 persons employed in mines or work incidental thereto, per-
 21 sons disabled as the result of such employment, persons dis-
 22 placed by governmental action, or persons dislocated as the
 23 result of natural disasters or catastrophic failure from any
 24 cause. Such activities shall be accomplished under such terms
 25 and conditions as the Secretary shall require, which may in-

1 clude transfers of land with or without monetary considera-
 2 consideration: *Provided*, That, to the extent that the con-
 3 sideration is below the fair market value of the land trans-
 4 ferred, no portion of the difference between the fair market
 5 value and the consideration shall accrue as a profit to such
 6 person, firm, association, or corporation. Land development
 7 may include the construction of public facilities or other im-
 8 provements including reasonable site work and offsite im-
 9 provements such as sewer and water extensions which the
 10 Secretary determines necessary or appropriate to the eco-
 11 nomic feasibility of a project. No part of the funds provided
 12 under this title may be used to pay the actual construction
 13 costs of housing.

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

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

24 (4) The Secretary may make expenditures to carry out

1 the purpose of this subsection, without regard to the provi-
 2 sions of section 403, in any area experiencing a rapid devel-
 3 opment of its coal resources which the Secretary has deter-
 4 mined does not have essential public facilities.

5 FILLING VOIDS AND SEALING TUNNELS

6 SEC. 406. (a) The Congress declares that voids, and
 7 open and abandoned tunnels, shafts, and entryways result-
 8 ing from any previous mining operation, constitute a hazard
 9 to the public health or safety and that surface impacts of
 10 any underground or surface mining operation may degrade
 11 the environment. The Secretary, at the request of the Gov-
 12 ernor of any State, or the chairman of any tribe, is
 13 authorized to fill such voids, seal such abandoned tunnels,
 14 shafts, and entryways, and reclaim surface impacts of under-
 15 ground or surface mines which the Secretary determines
 16 could endanger life and property, constitute a hazard to the
 17 public health and safety, or degrade the environment.

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

22 (c) The Secretary may make expenditures and carry
 23 out the purposes of this section without regard to provisions
 24 of section 403 in such States or Indian reservations where

1 requests are made by the Governor or tribal chairman and
 2 only after all reclamation with respect to abandoned coal
 3 lands or coal development impacts have been met, except
 4 for those reclamation projects relating to the protection of
 5 the public health or safety.

6 (d) In those instances where mine waste piles are
 7 being reworked for coal conservation purposes, the incre-
 8 mental costs of disposing of the wastes from such operations
 9 by filling voids and sealing tunnels may be eligible for fund-
 10 ing providing that the disposal of these wastes meets the pur-
 11 poses of this section.

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

15 FUND REPORT

16 SEC. 407. Not later than January 1, 1976, and annually
 17 thereafter, the Secretary shall report to the Congress on
 18 operations under the fund together with his recommendations
 19 as to future uses of the fund.

20 TRANSFER OF FUNDS

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

1 TITLE V—CONTROL OF THE ENVIRONMENTAL 2 IMPACTS OF SURFACE COAL MINING

3 ENVIRONMENTAL PROTECTION STANDARDS

4 SEC. 501. Not later than the end of the one-hundred-
 5 and-eighty-day period immediately following the date of
 6 enactment of this Act, the Secretary shall promulgate and
 7 publish in the Federal Register regulations covering a perma-
 8 nent regulatory procedure for surface coal mining and
 9 reclamation operations setting mining and reclamation per-
 10 formance standards based on and incorporating the provisions
 11 of title V and establishing procedures and requirements for
 12 preparation, submission, and approval of State programs and
 13 development and implementation of Federal programs under
 14 this title. Such regulations shall not be promulgated and pub-
 15 lished by the Secretary until he has—

16 (A) published proposed regulations in the Federal
 17 Register and afforded interested persons and State and
 18 local governments a period of not less than forty-five days
 19 after such publication to submit written comments
 20 thereon;

21 (B) obtained the written concurrence of the Admin-
 22 istrator of the Environmental Protection Agency with
 23 respect to those regulations promulgated under this sec-

1 tion which relate to air or water quality standards pro-
 2 mulgated under the authority of the Federal Water
 3 Pollution Control Act, as amended (33 U.S.C. 1151-
 4 1175), and the Clean Air Act, as amended (42 U.S.C.
 5 1857 et seq.) ; and

6 (C) held at least one public hearing on the proposed
 7 regulations.

8 The date, time, and place of any hearing held on the pro-
 9 posed regulations shall be set out in the publication of the
 10 proposed regulations. The Secretary shall consider all com-
 11 ments and relevant data presented at such hearing before
 12 final promulgation and publication of the regulations.

13 INITIAL REGULATORY PROCEDURES

14 SEC. 502. (a) No person shall open or develop any new
 15 or previously mined or abandoned site for surface coal min-
 16 ing operations on lands on which such operations are regu-
 17 lated by a State unless such person has obtained a permit
 18 from the State's regulatory authority.

19 (b) All surface coal mining operations on lands on
 20 which such operations are regulated by a State which com-
 21 mence operations pursuant to a permit issued on or after
 22 six months from the date of enactment of this Act shall
 23 comply, and such permits shall contain terms requiring com-
 24 pliance with, the provisions of subsections 515 (b) (2),

1 515 (b) (3), 515 (b) (5), 515 (b) (10), 515 (b) (13),
 2 515 (b) (19), and 515 (d) of this Act.

3 (c) On and after one year from the date of enactment
 4 of this Act, all surface coal mining operations on lands on
 5 which such operations are regulated by a State which are
 6 in operation pursuant to a permit issued before the date of
 7 enactment of this Act shall comply with the provisions
 8 of subsections 515 (b) (2), 515 (b) (3), 515 (b) (5),
 9 515 (b) (10), 515 (b) (13), 515 (b) (19), and 515 (d) of
 10 this Act, with respect to lands from which overburden and
 11 the coal seam being mined have not been removed.

12 (d) Upon the request of the permit applicant or per-
 13 mittee subsequent to a written finding by the regulatory
 14 authority and under the conditions and procedures set forth
 15 in subsection 515 (e), the regulatory authority may grant
 16 variances from the requirement to restore to approximate
 17 original contour set forth in subsections 515 (b) (3) and
 18 515 (d).

19 (e) Not later than twenty months from the date of
 20 enactment of this Act, all operators of surface coal mines
 21 in expectation of operating such mines after the date of
 22 approval of a State program, or the implementation of a
 23 Federal program, shall file an application for a permit
 24 with the regulatory authority, such application to cover

1 those lands to be mined after the date of approval of the
 2 State program. The regulatory authority shall process such
 3 applications and grant or deny a permit within six months
 4 after the date of approval of the State program, but in no
 5 case later than thirty months from the date of enactment of
 6 this Act.

7 (f) Within six months after the date of enactment of
 8 this Act, the Secretary shall implement a Federal enforce-
 9 ment program which shall remain in effect in each State as
 10 surface coal mining operations are required to comply with
 11 the provisions of this Act, until the State program has been
 12 approved pursuant to this Act or until a Federal program
 13 has been implemented pursuant to this Act. The enforce-
 14 ment program shall—

15 (1) include inspections of surface coal mine sites
 16 which shall be made on a random basis (but at least
 17 one inspection for every site every three months),
 18 without advance notice to the mine operator and for the
 19 purpose of ascertaining compliance with the standards
 20 of subsections (b) and (c) above. The Secretary shall
 21 order any necessary enforcement action to be imple-
 22 mented pursuant to the Federal enforcement provision
 23 of this title to correct violations identified at the in-
 24 spections;

25 (2) provide that upon receipt of inspection reports

1 indicating that any surface coal mining operation has
 2 been found in violation of subsections (b) and (c)
 3 above, during not less than two consecutive State in-
 4 spections or upon receipt by the Secretary of informa-
 5 tion which would give rise to reasonable belief that such
 6 standards are being violated by any surface coal mining
 7 operation, the Secretary shall order the immediate in-
 8 spection of such operation by Federal inspectors and the
 9 necessary enforcement actions, if any, to be implemented
 10 pursuant to the Federal enforcement provisions of this
 11 title. When the Federal inspection results from informa-
 12 tion provided to the Secretary by any person, the Secre-
 13 tary shall notify such person when the Federal inspec-
 14 tion is proposed to be carried out and such person shall
 15 be allowed to accompany the inspector during the in-
 16 spection;

17 (3) for purposes of this section, the term "Federal
 18 inspector" means personnel of the Office of Surface
 19 Mining Reclamation and Enforcement and such addi-
 20 tional personnel of the United States Geological Survey,
 21 Bureau of Land Management, or of the Mining Enforce-
 22 ment and Safety Administration so designated by the
 23 Secretary, or such other personnel of the Forest Service,
 24 Soil Conservation Service, or the Agricultural Stabili-
 25 zation and Conservation Service as arranged by appro-

1 pripate agreement with the Secretary on a reimbursable
2 or other basis;

3 (4) provide that the State regulatory agency file
4 with the Secretary and with a designated Federal office
5 centrally located in the county or area in which the in-
6 spected surface coal mine is located copies of inspection
7 reports made;

8 (5) provide that moneys authorized by section 712
9 shall be available to the Secretary prior to the approval
10 of a State program pursuant to this Act to reimburse
11 the States for conducting those inspections in which the
12 standards of this Act are enforced and for the adminis-
13 tration of this section.

14 (g) Following the final disapproval of a State program,
15 and prior to promulgation of a Federal program or a Fed-
16 eral lands program pursuant to this Act, including judicial
17 review of such a program, existing surface coal mining op-
18 erations may continue surface mining operations pursuant to
19 the provisions of section 502 of this Act.

20 STATE PROGRAMS

21 SEC. 503. (a) Each State in which there is or may
22 be conducted surface coal mining operations, and which
23 wishes to assume exclusive jurisdiction over the regulation
24 of surface coal mining and reclamation operations, except as
25 provided in section 521 and title IV of this Act, shall submit

1 to the Secretary, by the end of the eighteen-month period
2 beginning on the date of enactment of this Act, a State
3 program which demonstrates that such State has the capa-
4 bility of carrying out the provisions of this Act and meeting
5 its purposes through—

6 (1) a State law which provides for the regulation
7 of surface coal mining and reclamation operations in
8 accordance with the requirements of this Act and the
9 regulations issued by the Secretary pursuant to this
10 Act;

11 (2) a State law which provides sanctions for vio-
12 lations of State laws, regulations, or conditions of per-
13 mits concerning surface coal mining and reclamation
14 operations, which sanctions shall meet the minimum
15 requirements of this Act, including civil and criminal
16 actions, forfeiture of bonds, suspensions, revocations,
17 and withholding of permits, and the issuance of cease-
18 and-desist orders by the State regulatory authority or its
19 inspectors;

20 (3) a State regulatory authority with sufficient
21 administrative and technical personnel, and sufficient
22 funding to enable the State to regulate surface coal min-
23 ing and reclamation operations in accordance with the
24 requirements of this Act;

25 (4) a State law which provides for the effective

1 implementation, maintenance, and enforcement of a permit system, meeting the requirements of this title for
 2 the regulation of surface coal mining and reclamation
 3 operations for coal on lands within the State;

4 (5) establishment of a process for the designation of
 5 areas as unsuitable for surface coal mining in accordance
 6 with section 522;

7 (6) establishment, for the purposes of avoiding
 8 duplication, of a process for coordinating the review and
 9 issuance of permits for surface coal mining and reclama-
 10 tion operations with any other Federal or State permit
 11 process applicable to the proposed operations.

12 (b) The Secretary shall not approve any State program
 13 submitted under this section until he has—

14 (1) solicited and publicly disclosed the views of
 15 the Administrator of the Environmental Protection
 16 Agency, the Secretary of Agriculture, and the heads of
 17 other Federal agencies concerned with or having special
 18 expertise pertinent to the proposed State program;

19 (2) obtained the written concurrence of the Admin-
 20 istrator of the Environmental Protection Agency with
 21 respect to those aspects of a State program which relate
 22 to air or water quality standards promulgated under the
 23 authority of the Federal Water Pollution Control Act, as
 24

1 amended (33 U.S.C. 1151-1175), and the Clean Air
 2 Act, as amended (42 U.S.C. 1857 et seq.);

3 (3) held at least one public hearing on the State
 4 program within the State; and

5 (4) found that the State has the legal authority and
 6 qualified personnel necessary for the enforcement of the
 7 environmental protection standards.

8 The Secretary shall approve or disapprove a State program,
 9 in whole or in part, within six full calendar months after
 10 the date such State program was submitted to him.

11 (c) If the Secretary disapproves any proposed State
 12 program in whole or in part, he shall notify the State in
 13 writing of his decision and set forth in detail the reasons
 14 therefor. The State shall have sixty days in which to re-
 15 submit a revised State program or portion thereof. The Sec-
 16 retary shall approve or disapprove the resubmitted State
 17 program or portion thereof within sixty days from the date
 18 of resubmission.

19 (d) For the purposes of this section and section 504,
 20 the inability of a State to take any action the purpose of
 21 which is to prepare, submit or enforce a State program, or
 22 any portion thereof, because the action is enjoined by
 23 the issuance of an injunction by any court of competent
 24 jurisdiction shall not result in a loss of eligibility for finan-

1 cial assistance under titles IV and VII of this Act or in
2 the imposition of a Federal program. Regulation of the
3 surface coal mining and reclamation operations covered or
4 to be covered by the State program subject to the injunc-
5 tion shall be conducted by the State pursuant to section
6 502 of this Act, until such time as the injunction termi-
7 nates or for one year, whichever is shorter, at which time the
8 requirements of sections 503 and 504 shall again be fully
9 applicable.

10 FEDERAL PROGRAMS

11 SEC. 54. (a) The Secretary shall prepare and, subject
12 to the provisions of this section, promulgate and implement
13 a Federal program for a State no later than thirty months
14 after the date of enactment of this Act if such State—

15 (1) fails to submit a State program covering surface
16 coal mining and reclamation operations by the end of the
17 eighteen-month period beginning on the date of enact-
18 ment of this Act;

19 (2) fails to resubmit an acceptable State program
20 within sixty days of disapproval of a proposed State pro-
21 gram: *Provided*, That the Secretary shall not implement
22 a Federal program prior to the expiration of the initial
23 period allowed for submission of a State program as pro-
24 vided for in clause (1) of this subsection; or

1 (3) fails to implement, enforce, or maintain its ap-
2 proved State program as provided for in this Act.

3 If State compliance with clause (1) of this subsection re-
4 quires an act of the State legislature, the Secretary may ex-
5 tend the period of submission of a State program up to an
6 additional six months. Promulgation and implementation of
7 a Federal program vests the Secretary with exclusive juris-
8 diction for the regulation and control of surface coal mining
9 and reclamation operations taking place on lands within
10 any State not in compliance with this Act. After promulga-
11 tion and implementation of a Federal program the Secretary
12 shall be the regulatory authority. If a Federal program is
13 implemented for a State, subsections 522 (a), (c), and (d)
14 shall not apply for a period of one year following the date of
15 such implementation. In promulgating and implementing a
16 Federal program for a particular State the Secretary shall
17 take into consideration the nature of that State's terrain,
18 climate, biological, chemical, and other relevant physical
19 conditions.

20 (b) In the event that a State has a State program for
21 surface coal mining, and is not enforcing any part of such
22 program, the Secretary may provide for the Federal enforce-
23 ment, under the provisions of section 521, of that part of
24 the State program not being enforced by such State.

1 (c) Prior to promulgation and implementation of any
2 proposed Federal program, the Secretary shall give adequate
3 public notice and hold a public hearing in the affected State.

4 (d) Permits issued pursuant to an approved State pro-
5 gram shall be valid but reviewable under a Federal pro-
6 gram. Immediately following promulgation of a Federal
7 program, the Secretary shall undertake to review such per-
8 mits to determine that the requirements of this Act are
9 not violated. If the Secretary determines any permit to have
10 been granted contrary to the requirements of this Act, he
11 shall so advise the permittee and provide him a reasonable
12 opportunity for submission of a new application and reason-
13 able time to conform ongoing surface mining and reclama-
14 tion operations to the requirements of the Federal program.

15 (e) A State which has failed to obtain the approval of
16 a State program prior to implementation of a Federal pro-
17 gram may submit a State program at any time after such
18 implementation. Upon the submission of such a program,
19 the Secretary shall follow the procedures set forth in section
20 503 (b) and shall approve or disapprove the State program
21 within six months after its submittal. Approval of a State
22 program shall be based on the determination that the State
23 has the capability of carrying out the provisions of this Act
24 and meeting its purposes through the criteria set forth in
25 section 503 (a) (1) through (6). Until a State program

1 is approved as provided under this section, the Federal pro-
2 gram shall remain in effect and all actions taken by
3 the Secretary pursuant to such Federal program, including
4 the terms and conditions of any permit issued thereunder,
5 shall remain in effect.

6 (f) Permits issued pursuant to the Federal program
7 shall be valid but reviewable under the approved State pro-
8 gram. The State regulatory authority may review such
9 permits to determine that the requirements of this Act and
10 the approved State program are not violated. If the State
11 regulatory authority determines any permit to have been
12 granted contrary to the requirements of this Act or the
13 approved State program, he shall so advise the permittee and
14 provide him a reasonable opportunity for submission of a new
15 application and reasonable time to conform ongoing surface
16 mining and reclamation operations to the requirements of this
17 Act or approved State program.

18 (g) Whenever a Federal program is promulgated for a
19 State pursuant to this Act, any statutes or regulations of such
20 State which are in effect to regulate surface mining and
21 reclamation operations subject to this Act shall, insofar as
22 they interfere with the achievement of the purposes and the
23 requirements of this Act and the Federal program, be pre-
24 empted and superseded by the Federal program.

25 (h) Any Federal program shall include a process for

1 coordinating the review and issuance of permits for surface
2 mining and reclamation operations with any other Federal or
3 State permit process applicable to the proposed operation.

4 STATE LAWS

5 SEC. 505. (a) No State law or regulation in effect on
6 the date of enactment of this Act, or which may become
7 effective thereafter, shall be superseded by any provision of
8 this Act or any regulation issued pursuant thereto, except
9 insofar as such State law or regulation is inconsistent with the
10 provisions of this Act.

11 (b) Any provision of any State law or regulation in
12 effect upon the date of enactment of this Act, or which may
13 become effective thereafter, which provides for more strin-
14 gent land use and environmental controls and regulations of
15 surface coal mining and reclamation operations than do the
16 provisions of this Act or any regulation issued pursuant
17 thereto shall not be construed to be inconsistent with this
18 Act. Any provision of any State law or regulation in effect
19 on the date of enactment of this Act, or which may become
20 effective thereafter, which provides for the control and regu-
21 lation of surface mining and reclamation operations for which
22 no provision is contained in this Act shall not be construed
23 to be inconsistent with this Act.

24 (c) Nothing in this Act shall be construed as affecting
25 in any way the right of any person to enforce or protect,

1 under applicable State law, his interest in water resources
2 affected by a surface coal mining operation.

3 PERMITS

4 SEC. 506. (a) On and after six months from the date on
5 which a State program is approved by the Secretary, pur-
6 suant to section 503 of this Act, or on and after six months
7 from the date on which the Secretary has promulgated a Fed-
8 eral program for a State not having a State program pur-
9 suant to section 504 of this Act, no person shall engage in or
10 carry out on lands within a State any surface coal mining
11 operations unless such person has first obtained a permit
12 issued by such State pursuant to an approved State program
13 or by the Secretary pursuant to a Federal program; except a
14 person conducting surface coal mining operations under a
15 permit from the State regulatory authority, issued in accord-
16 ance with the provisions of section 502 of this Act, may con-
17 duct such operations beyond such period if an application for
18 a permit has been filed in accordance with the provisions of
19 this Act, but the initial administrative decision has not been
20 rendered.

21 (b) All permits issued pursuant to the requirements of
22 this Act shall be issued for a term not to exceed five years
23 and shall be nontransferable: *Provided*, That a successor
24 in interest to a permittee who applies for a new permit with-
25 in thirty days of succeeding to such interest and who is able

1 to obtain the bond coverage of the original permittee may
 2 continue surface coal mining and reclamation operations
 3 according to the approved mining and reclamation plan of
 4 the original permittee until such successor's application is
 5 granted or denied.

6 (c) A permit shall terminate if the permittee has not
 7 commenced the surface coal mining and reclamation opera-
 8 tions covered by such permit within three years of the issu-
 9 ance of the permit, provided that with respect to coal to be
 10 mined for use in a synthetic fuel facility, the permittee shall
 11 be deemed to have commenced surface mining operations at
 12 such time as the construction of the synthetic fuel facility is
 13 initiated.

14 (d) (1) Any valid permit issued pursuant to this Act
 15 shall carry with it the right of successive renewal upon ex-
 16 piration with respect to areas within the boundaries of the
 17 existing permit. The holder of the permit may apply for
 18 renewal and such renewal shall be issued, subsequent to
 19 public hearing upon the following requirements and written
 20 findings by the regulatory authority that—

21 (A) the terms and conditions of the existing permit
 22 are being satisfactorily met;

23 (B) the present surface coal mining and reclamation
 24 operation is in full compliance with the environmental

1 protection standards of this Act and the approved State
 2 plan pursuant to this Act;

3 (C) the renewal requested does not jeopardize the
 4 operator's continuing responsibility on existing permit
 5 areas;

6 (D) the operator has provided evidence that the
 7 performance bond in effect for said operation will con-
 8 tinue in full force and effect for any renewal requested
 9 in such application as well as any additional bond the
 10 regulatory authority might require pursuant to section
 11 509; and

12 (E) any additional revised or updated information
 13 required by the regulatory authority has been pro-
 14 vided. Prior to the approval of any extension of permit
 15 the regulatory authority shall provide notice to the
 16 appropriate public authorities.

17 (2) If an application for renewal of a valid permit
 18 includes a proposal to extend the mining operation beyond
 19 the boundaries authorized in the existing permit, the portion
 20 of the application for revision of a valid permit which
 21 addresses any new land areas shall be subject to the full
 22 standards applicable to new applications under this Act.

23 (3) Any permit renewal shall be for a term not to
 24 exceed the period of the original permit established by this

1 Act. Application for permit renewal shall be made at least
2 one hundred and twenty days prior to the expiration of the
3 valid permit.

4 APPLICATION REQUIREMENTS

5 SEC. 507. (a) Each application for a surface coal
6 mining and reclamation permit pursuant to an approved
7 State program or a Federal program under the provisions
8 of this Act shall be accompanied by a fee as determined
9 by the regulatory authority. Such fee shall be based as
10 nearly as possible upon the actual or anticipated cost of
11 reviewing, administering, and enforcing such permit issued
12 pursuant to a State or Federal program. The regulatory
13 authority may develop procedures so as to enable the cost
14 of the fee to be paid over the term of the permit.

15 (b) The permit application shall be submitted in a
16 manner satisfactory to the regulatory authority and shall
17 contain, among other things—

18 (1) the names and addresses of (A) the permit
19 applicant; (B) every legal owner of record of the
20 property (surface and mineral), to be mined; (C) the
21 holders of record of any leasehold interest in the prop-
22 erty; (D) any purchaser of record of the property
23 under a real estate contract; (E) the operator if he is a
24 person different from the applicant; and (F) if any
25 of these are business entities other than a single proprie-

1 tor, the names and addresses of the principals, officers,
2 and resident agent;

3 (2) the names and addresses of the owners of
4 record of all surface and subsurface areas within five
5 hundred feet of any part of the permit area;

6 (3) a statement of any current or previous surface
7 coal mining permits in the United States held by the
8 applicant and the permit identification;

9 (4) if the applicant is a partnership, corporation,
10 association, or other business entity, the following where
11 applicable: the names and addresses of every officer,
12 partner, director, or persons performing a function simi-
13 lar to a director, of the applicant, together with the
14 name and address of any person owning, or record or
15 beneficially either alone or with associates, 10 per
16 centum or more of any class of stock of the applicant and
17 a list of all names under which the applicant, partner,
18 or principal shareholder previously operated a surface
19 mining operation within the United States;

20 (5) a statement of whether the applicant, any sub-
21 sidiary, affiliate, or persons controlled by or under com-
22 mon control with the applicant, has ever held a Federal
23 or State mining permit which subsequent to 1960 has
24 been suspended or revoked or has had a mining bond or

1 similar security deposited in lieu of bond forfeited and,
2 if so, a brief explanation of the facts involved;

3 (6) a copy of the applicant's advertisement to be
4 published in a newspaper of general circulation in the
5 locality of the proposed site at least once a week for four
6 successive weeks, and which includes the ownership, a
7 description of the exact location and boundaries of the
8 proposed site sufficient so that the proposed operation is
9 readily locatable by local residents, and the location of
10 where the application is available for public inspection;

11 (7) a description of the type and method of coal
12 mining operation that exists or is proposed, the engineer-
13 ing techniques proposed or used, and the equipment used
14 or proposed to be used;

15 (8) the anticipated or actual starting and termina-
16 tion dates of each phase of the mining operation and
17 number of acres of land to be affected;

18 (9) evidence of the applicant's legal right to enter
19 and commence surface mining operations on the area
20 affected;

21 (10) the name of the watershed and location of the
22 surface stream or tributary into which surface and pit
23 drainage will be discharged;

24 (11) a determination of the hydrologic consequences
25 of the mining and reclamation operations, both on and

1 off the mine site, with respect to the hydrologic regime,
2 quantity and quality of water in surface and ground
3 water systems including the dissolved and suspended
4 solids under seasonal flow conditions and the collection
5 of sufficient data for the mine site and surrounding area
6 so that an assessment can be made of the probable cumu-
7 lative impacts of all anticipated mining in the area upon
8 the hydrology of the area and particularly upon water
9 availability;

10 (12) when requested by the regulatory authority,
11 the climatological factors that are peculiar to the locality
12 of the land to be affected, including the average seasonal
13 precipitation, the average direction and velocity of pre-
14 vailing winds, and the seasonal temperature ranges;

15 (13) an accurate map or plan to an appropriate
16 scale clearly showing (A) the land to be affected as of
17 the date of application and (B) all types of information
18 set forth on topographical maps of the United States
19 Geological Survey of a scale of 1:24,000 or larger, in-
20 cluding all manmade features and significant known
21 archeological sites existing on the date of application.
22 Such a map or plan shall among other things specified
23 by the regulatory authority show all boundaries of the
24 land to be affected, the boundary lines and names of pres-
25 ent owners of record of all surface areas abutting the per-

1 mit area, and the location of all buildings within one
2 thousand feet of the permit area;

3 (14) cross section maps or plans of the land to be
4 affected including the actual area to be mined, prepared
5 by or under the direction of and certified by a registered
6 professional engineer, or registered land surveyor and
7 a professional geologist (when specific subsurface in-
8 formation is deemed essential and requested by the
9 regulatory authority), or other qualified personnel at
10 State universities showing pertinent elevation and loca-
11 tion of test borings or core samplings and depicting the
12 following information: the nature and depth of the
13 various strata of overburden; the location of subsurface
14 water, if encountered, and its quality; the nature and
15 thickness of any coal or rider seam above the coal seam
16 to be mined; the nature of the stratum immediately be-
17 neath the coal seam to be mined; all mineral crop lines
18 and the strike and dip of the coal to be mined within the
19 area of land to be affected; existing or previous surface
20 mining limits; the location and extent of known work-
21 ings of any underground mines, including mine openings
22 to the surface; the location of aquifers; the estimated
23 elevation of the water table; the location of spoil, waste,
24 or refuse areas and topsoil preservation areas; the loca-
25 tion of all impoundments for waste or erosion control;

1 any settling or water treatment facilities; constructed or
2 natural drainways and the location of any discharges
3 to any surface body of water on the area of land to be
4 affected or adjacent thereto; and profiles at appropriate
5 cross sections of the anticipated final surface configura-
6 tion that will be achieved pursuant to the operator's pro-
7 posed reclamation plan;

8 (15) a statement of the result of test borings or core
9 samplings from the permit area, including logs of the
10 drill holes; the thickness of the coal seam found, an
11 analysis of the chemical properties of such coal; the
12 sulfur content of any coal seam; chemical analysis of
13 potentially acid or toxic forming sections of the over-
14 burden; and chemical analysis of the stratum lying im-
15 mediately underneath the coal to be mined; and

16 (16) information pertaining to coal seams, test bor-
17 ings, or core samplings as required by this section shall
18 be made available to any person with an interest which
19 is or may be adversely affected: *Provided*, That informa-
20 tion which pertains only to the analysis of the chemical
21 and physical properties of the coal (excepting informa-
22 tion regarding such mineral or elemental content which
23 is potentially toxic in the environment) shall be kept
24 confidential and not made a matter of public record.

25 (c) Each applicant for a permit shall be required to

1 submit to the regulatory authority as part of the permit ap-
 2 plication a certificate issued by an insurance company au-
 3 thorized to do business in the United States certifying that
 4 the applicant has a public liability insurance policy in force
 5 for the surface mining and reclamation operations for which
 6 such permit is sought, or evidence that the applicant has
 7 satisfied other State or Federal self-insurance requirements.
 8 Such policy shall provide for personal injury and property
 9 damage protection in an amount adequate to compensate any
 10 persons damaged as a result of surface coal mining and
 11 reclamation operations and entitled to compensation under
 12 the applicable provisions of State law. Such policy shall be
 13 maintained in full force and effect during the terms of the
 14 permit or any renewal, including the length of all reclama-
 15 tion operations.

16 (d) Each applicant for a permit shall be required to
 17 submit to the regulatory authority as part of the permit ap-
 18 plication a reclamation plan which shall meet the require-
 19 ments of this Act.

20 (e) Each applicant for a surface coal mining and recla-
 21 mation permit shall file a copy of his application for public
 22 inspection with the recorder at the courthouse of the county
 23 or an appropriate official approved by the regulatory author-
 24 ity where the mining is proposed to occur, except for that
 25 information pertaining to the coal seam itself.

1 RECLAMATION PLAN REQUIREMENTS

2 SEC. 508. (a) Each reclamation plan submitted as part
 3 of a permit application pursuant to any approved State pro-
 4 gram or a Federal program under the provisions of this Act
 5 shall include, in the degree of detail necessary to demon-
 6 strate that reclamation required by the State or Federal pro-
 7 gram can be accomplished, a statement of:

8 (1) the identification of the entire area to be
 9 mined and affected over the estimated life of the mining
 10 operation and the size, sequence, and timing of the sub-
 11 areas for which it is anticipated that individual permits
 12 for mining will be sought;

13 (2) the condition of the land to be covered by the
 14 permit prior to any mining including:

15 (A) the uses existing at the time of the appli-
 16 cation, and if the land has a history of previous min-
 17 ing, the uses which preceded any mining; and

18 (B) the capability of the land prior to any min-
 19 ing to support a variety of uses giving consideration
 20 to soil and foundation characteristics, topography,
 21 and vegetative cover;

22 (3) the use which is proposed to be made of the
 23 land following reclamation, including a discussion of the
 24 utility and capacity of the reclaimed land to support a
 25 variety of alternative uses and the relationship of such

1 use to existing land use policies and plans, and the com-
 2 ments of any State and local governments or agencies
 3 thereof which would have to approve or authorize the
 4 proposed use of the land following reclamation;

5 (4) a detailed description of how the proposed
 6 postmining land use is to be achieved and the necessary
 7 support activities which may be needed to achieve the
 8 proposed land use;

9 (5) the engineering techniques proposed to be used
 10 in mining and reclamation and a description of the
 11 major equipment; a plan for the control of surface
 12 water drainage and of water accumulation; a plan, where
 13 appropriate, for backfilling, soil stabilization, and com-
 14 pacting, grading, and appropriate revegetation; an esti-
 15 mate of the cost per acre of the reclamation, including
 16 a statement as to how the permittee plans to comply
 17 with each of the requirements set out in section 515;

18 (6) the steps to be taken to comply with applicable
 19 air and water quality laws and regulations and any ap-
 20 plicable health and safety standards;

21 (7) the consideration which has been given to
 22 developing the reclamation plan in a manner consistent
 23 with local, physical, environmental, and climatological
 24 conditions and current mining and reclamation tech-
 25 nologies;

1 (8) the consideration which has been given to
 2 insuring the maximum practicable recovery of the
 3 mineral resource;

4 (9) a detailed estimated timetable for the accom-
 5 plishment of each major step in the reclamation plan;

6 (10) the consideration which has been given to
 7 making the surface mining and reclamation operations
 8 consistent with applicable State and local land use plans
 9 and programs;

10 (11) all lands, interests in lands, or options on
 11 such interests held by the applicant or pending bids
 12 on interests in lands by the applicant, which lands are
 13 contiguous to the area to be covered by the permit;

14 (12) the results of test borings which the appli-
 15 cant has made at the area to be covered by the permit,
 16 including the location of subsurface water, and an
 17 analysis of the chemical properties including acid form-
 18 ing properties of the mineral and overburden: *Provided,*
 19 That information about the mineral shall be withheld by
 20 the regulatory authority if the applicant so requests;

21 (13) a detailed description of the measures to be
 22 taken during the mining and reclamation process to
 23 assure the protection of (A) the quantity and quality
 24 of surface and ground water systems, both on- and off-

1 site, from adverse effects of the mining and reclamation
2 process, and (B) the rights of present users to such
3 water; and

4 (14) such other requirements as the regulatory au-
5 thority shall prescribe by regulation.

6 (b) Any information required by this section which is
7 not on public file pursuant to State law shall be held in
8 confidence by the regulatory authority.

9 PERFORMANCE BONDS

10 SEC. 509. (a) After a surface coal mining and reclama-
11 tion permit application has been approved but before such
12 a permit is issued, the applicant shall file with the regulatory
13 authority, on a form prescribed and furnished by the regu-
14 latory authority, a bond for performance payable, as appro-
15 priate, to the United States or to the State, and conditional
16 upon faithful performance of all the requirements of this Act
17 and the permit. The bond shall cover that area of land
18 within the permit area upon which the operator will initiate
19 and conduct surface coal mining and reclamation operations
20 within the initial term of the permit. As succeeding incre-
21 ments of surface coal mining and reclamation operations are
22 to be initiated and conducted within the permit area, the
23 permittee shall file with the regulatory authority an addi-
24 tional bond or bonds to cover such increments in accordance
25 with this section. The amount of the bond required for each

1 bonded area shall depend upon the reclamation requirements
2 of the approved permit and shall be determined by the regu-
3 latory authority on the basis of at least two independent
4 estimates. The amount of the bond shall be sufficient to assure
5 the completion of the reclamation plan if the work had to
6 be performed by a third party in the event of forfeiture and
7 in no case shall the bond be less than \$10,000.

8 (b) Liability under the bond shall be for the duration
9 of the surface coal mining and reclamation operation and for
10 a period coincident with operator's responsibility for vege-
11 tation requirements in section 515.

12 The bond shall be executed by the operator and a cor-
13 porate surety licensed to do business in the State where such
14 operation is located, except that the operator may elect to
15 deposit cash, negotiable bonds of the United States Govern-
16 ment or such State, or negotiable certificates of deposit of any
17 bank organized or transacting business in the United States.
18 The cash deposit or market value of such securities shall be
19 equal to or greater than the amount of the bond required for
20 the bonded area.

21 (c) The regulatory authority may accept the bond of
22 the applicant itself without separate surety when the appli-
23 cant demonstrates to the satisfaction of the regulatory author-
24 ity the existence of a suitable agent to receive service of proc-
25 ess and a history of financial solvency and continuous opera-

1 tion sufficient for authorization to self-insure or bond such
2 amount.

3 (d) Cash or securities so deposited shall be deposited
4 upon the same terms as the terms upon which bonds may be
5 deposited. Such securities shall be security for the repayment
6 of such negotiable certificate of deposit.

7 (e) The amount of the bond or deposit required and the
8 terms of each acceptance of the applicant's bond shall be ad-
9 justed by the regulatory authority from time to time as
10 affected land acreages are increased or decreased or where
11 the cost of future reclamation obviously changes.

12 PERMIT APPROVAL OR DENIAL

13 SEC. 510. (a) Upon the basis of a complete mining
14 application and reclamation plan or a revision or renewal
15 thereof, as required by this Act and pursuant to an approved
16 State program or Federal program under the provisions of
17 this Act, including public notification and an opportunity for
18 a public hearing as required by section 513, the regulatory
19 authority shall grant or deny the application for a permit and
20 notify the applicant in writing. Within ten days after the
21 granting of a permit, the regulatory authority shall notify the
22 State and the local official who has the duty of collecting real
23 estate taxes in the local political subdivision in which the
24 area of land to be affected is located that a permit has been
25 issued and shall describe the location of the land.

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

7 (1) all the requirements of this Act and the State or
8 Federal program have been complied with;

9 (2) the applicant has demonstrated that reclamation
10 as required by this Act and the State or Federal program
11 can be accomplished under the reclamation plan con-
12 tained in the permit application;

13 (3) the assessment of the probable cumulative im-
14 pact of all anticipated mining in the area on the hy-
15 drologic balance specified in section 507 (b) has been
16 made and the proposed operation thereof has been
17 designed to prevent significant irreparable offsite damage
18 to hydrologic balance;

19 (4) the area proposed to be mined is not included
20 within an area designated unsuitable for surface coal
21 mining pursuant to section 522 of this Act or is not
22 within an area under study for such designation in an
23 administrative proceeding commenced pursuant to sec-
24 tion 522 (a) (4) (D) or section 522 (c) (unless in such
25 an area as to which an administrative proceeding has

1 commenced pursuant to section 522 (a) (4) (D) of this
 2 Act, the operator making the permit application demon-
 3 strates that, prior to the date of enactment of this Act,
 4 he has made substantial legal and financial commitments
 5 in relation to the operation for which he is applying for
 6 a permit) ; and

7 (5) the proposed surface coal mining operation, if
 8 located west of the one hundredth meridian west longi-
 9 tude, would not have a substantial adverse effect on allu-
 10 vial valley floors underlain by unconsolidated stream laid
 11 deposits where farming can be practiced in the form
 12 of irrigated, flood irrigated or naturally subirrigated hay
 13 meadows or other crop lands (excluding undeveloped
 14 range lands), where such valley floors are significant
 15 to the practice of farming or ranching operations, includ-
 16 ing potential farming or ranching operations if such
 17 operations are significant and economically feasible.

18 (c) The applicant shall file with his permit application
 19 a schedule listing any and all notices of violations of this Act
 20 and any law, rule, or regulation of the United States or of
 21 any department or agency in the United States pertaining to
 22 air or water environmental protection incurred by the appli-
 23 cant in connection with any surface coal mining operation
 24 during the one-year period prior to the date of application.
 25 The schedule shall also indicate the final resolution of any

1 such notice of violation. Where the schedule or other in-
 2 formation available to the regulatory authority indicates that
 3 any surface coal mining operation owned or controlled by
 4 the applicant is currently in violation of this Act or such
 5 other laws referred to this subsection, the permit shall not be
 6 issued until the applicant submits proof that such violation
 7 has been corrected or is in the process of being corrected
 8 to the satisfaction of the regulatory authority, department,
 9 or agency which has jurisdiction over such violation.

10 REVISION OF PERMITS

11 SEC. 511. (a) (1) During the term of the permit the
 12 permittee may submit an application, together with a revised
 13 reclamation plan, to the regulatory authority for a revision of
 14 the permit.

15 (2) An application for a revision of a permit shall not
 16 be approved unless the regulatory authority finds that recla-
 17 mation as required by this Act and the State or Federal pro-
 18 gram can be accomplished under the revised reclamation
 19 plan. The revision shall be approved or disapproved within
 20 a period of time established by the State or Federal program.
 21 The regulatory authority shall establish guidelines for a de-
 22 termination of the scale or extent of a revision request for
 23 which all permit application information requirements and
 24 procedures, including notice and hearings, shall apply: *Pro-*
 25 *vided*, That any revisions which propose a substantial change

1 in the intended future use of the land or significant alterations
2 in the reclamation plan shall, at a minimum, be subject to
3 notice and hearing requirements.

4 (3) Any extensions to the area covered by the permit
5 except incidental boundary revisions must be made by appli-
6 cation for another permit.

7 (b) No transfer, assignment, or sale of the rights
8 granted under any permit issued pursuant to this Act shall
9 be made without the written approval of the regulatory
10 authority.

11 (c) The regulatory authority may require reasonable
12 revision or modification of the permit provisions during the
13 term of such permit: *Provided*, That such revision or modifi-
14 cation shall be subject to notice and hearing requirements
15 established by the State or Federal program.

16 COAL EXPLORATION PERMITS

17 SEC. 512. (a) Each State program or Federal program
18 shall include a requirement that coal exploration operations
19 which substantially disturb the natural land surface be con-
20 ducted under a permit issued by the regulatory authority.

21 (b) Each application for a coal exploration permit pur-
22 suant to an approved State or Federal program under the
23 provisions of this Act shall be accompanied by a fee estab-
24 lished by the regulatory authority. Such fee shall be based,
25 as nearly as possible, upon the actual or anticipated cost of

1 reviewing, administering, and enforcing such permit issued
2 pursuant to a State or Federal program. The application and
3 supporting technical data shall be submitted in a manner
4 satisfactory to the regulatory authority and shall include a
5 description of the purpose of the proposed exploration proj-
6 ect. The supporting technical data shall include, among
7 other things—

8 (1) a general description of the existing environ-
9 ment;

10 (2) the location of the area of exploration by either
11 metes and bounds, lot, tract, range, or section, whichever
12 is most applicable, including a copy of the pertinent
13 United States Geological Survey topographical map or
14 maps with the area to be explored delineated thereon;

15 (3) a description of existing roads, railroads, utili-
16 ties, and rights-of-way, if not shown on the topographi-
17 cal map;

18 (4) the location of all surface bodies of water, if not
19 shown on the topographical map;

20 (5) the planned approximate location of any ac-
21 cess roads, cuts, drill holes, and necessary facilities that
22 may be constructed in the course of exploration, all of
23 which shall be platted on the topographical map;

24 (6) the estimated time of exploration;

1 (7) the ownership of the surface land to be ex-
2 plored;

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

7 (9) provisions for reclamation of all land disturbed
8 in exploration, including excavations, roads, drill holes,
9 and the removal of necessary facilities and equipment;
10 and

11 (10) such other information as the regulatory au-
12 thority may require.

13 (c) Specifically identified information submitted by the
14 applicant in the application and supporting technical data
15 as confidential concerning trade secrets or privileged commer-
16 cial or financial information which relates to the competitive
17 rights of the applicant shall not be available for public
18 examination.

19 (d) If an applicant is denied a coal exploration permit
20 under this Act, or if the regulatory authority fails to act with-
21 in a reasonable time, then the applicant may seek relief under
22 the appropriate administrative procedures.

23 (e) Any person who conducts any coal exploration
24 activities in connection with surface coal mining operations
25 under this Act without first having obtained a permit to

1 explore from the appropriate regulatory authority or shall fail
2 to conduct such exploration activities in a manner con-
3 sistent with his approved coal exploration permit, shall be
4 subject to the provisions of section 518.

5 PUBLIC NOTICE AND PUBLIC HEARINGS

6 SEC. 513. (a) At the time of submission of an applica-
7 tion for a surface coal mining and reclamation permit, or re-
8 vision of an existing permit, pursuant to the provisions of this
9 Act or an approved State program, the applicant shall sub-
10 mit to the regulatory authority a copy of his advertisement of
11 the ownership, precise location, and boundaries of the land
12 to be affected. At the time of submission such advertisement
13 shall be placed in a local newspaper of general circulation in
14 the locality of the proposed surface mine at least once a week
15 for four consecutive weeks. The regulatory authority shall
16 notify various local governmental bodies, planning agencies,
17 and sewage and water treatment authorities, or water com-
18 panies in the locality in which the proposed surface mining
19 will take place, notifying them of the operator's intention to
20 surface mine a particularly described tract of land and in-
21 dicating the application's permit number and where a copy
22 of the proposed mining and reclamation plan may be in-
23 spected. These local bodies, agencies, authorities, or com-
24 panies have obligations to submit written comments within
25 thirty days on the mining applications with respect to the

1 effect of the proposed operation on the environment which
 2 are within their area of responsibility. Such comments shall
 3 be made available to the public at the same locations as are
 4 the mining applications.

5 (b) Any person with a valid legal interest or the
 6 officer or head of any Federal, State, or local governmental
 7 agency or authority shall have the right to file written
 8 objections to the proposed initial or revised application for
 9 a permit for surface coal mining and reclamation operation
 10 with the regulatory authority within thirty days after the
 11 last publication of the above notice. If written objections are
 12 filed and a hearing requested, the regulatory authority shall
 13 then hold a public hearing in the locality of the proposed
 14 mining within a reasonable time of the receipt of such
 15 objections. The date, time, and location of such public
 16 hearing shall be advertised by the regulatory authority in a
 17 newspaper of general circulation in the locality at least once
 18 a week for three consecutive weeks prior to the scheduled
 19 hearing date. The regulatory authority may arrange with
 20 the applicant upon request by any party to the adminis-
 21 trative proceeding access to the proposed mining area for
 22 the purpose of gathering information relevant to the pro-
 23 ceeding. At this public hearing, the applicant for a permit
 24 shall have the burden of establishing that his application
 25 is in compliance with the applicable State and Federal laws.

1 Not less than ten days prior to any proposed hearing, the
 2 regulatory authority shall respond to the written objections
 3 in writing. Such response shall include the regulatory au-
 4 thority's preliminary proposals as to the terms and con-
 5 ditions, and amount of bond of a possible permit for the area
 6 in question and answers to material factual questions pre-
 7 sented in the written objections. The regulatory authority's
 8 responsibility under this subsection shall in any event be to
 9 make publicly available its estimate as to any other con-
 10 ditions of mining or reclamation which may be required
 11 or contained in the preliminary proposal. In the event all
 12 parties requesting the hearing stipulate agreement prior to the
 13 requested hearings, and withdraw their request, such hear-
 14 ings need not be held.

15 (c) For the purpose of such hearing, the regulatory
 16 authority may administer oaths, subpoena witnesses, or writ-
 17 ten or printed materials, compel attendance of the witnesses,
 18 or production of the materials, and take evidence including
 19 but not limited to site inspections of the land to be affected
 20 and other surface coal mining operations carried on by the
 21 applicant in the general vicinity of the proposed operation.
 22 A verbatim transcript and complete record of each public
 23 hearing shall be ordered by the regulatory authority.

1 DECISIONS OF REGULATORY AUTHORITY AND APPEALS

2 SEC. 514. (a) If a public hearing has been held pursuant
3 to section 513 (b), the regulatory authority shall issue and
4 furnish the applicant for a permit and persons who are parties
5 to the administrative proceedings with the written finding
6 of the regulatory authority, granting or denying the permit
7 in whole or in part and stating the reasons therefor, within
8 thirty days of said hearings.

9 (b) If there has been no public hearing held pursuant
10 to section 513 (b), the regulatory authority shall notify the
11 applicant for a permit within a reasonable time, taking into
12 account the time needed for proper investigation of the site,
13 the complexity of the permit application and whether or not
14 written objection to the application has been filed, whether
15 the application has been approved or disapproved. If the
16 application is approved, the permit shall be issued. If the
17 application is disapproved, specific reasons therefor must be
18 set forth in the notification. Within thirty days after the
19 applicant is notified that the permit or any portion thereof
20 has been denied, the applicant may request a hearing on the
21 reasons for the said disapproval. The regulatory authority
22 shall hold a hearing within thirty days of such request and
23 provide notification to all interested parties at the time that
24 the applicant is so notified. Within thirty days after the hear-
25 ing the regulatory authority shall issue and furnish the
26 applicant, and all persons who participated in the hearing,

1 with the written decision of the regulatory authority granting
2 or denying the permit in whole or in part and stating the
3 reasons therefor.

4 (c) Any applicant or any person who has participated
5 in the administrative proceedings as an objector, and who is
6 aggrieved by the decision of the regulatory authority, or if
7 the regulatory authority fails to act within a reasonable
8 period of time, shall have the right of appeal for review by
9 a court of competent jurisdiction in accordance with State or
10 Federal law.

11 ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

12 SEC. 515. (a) Any permit issued under any approved
13 State or Federal program pursuant to this Act to conduct
14 surface coal mining operations shall require that such surface
15 coal mining operations will meet all applicable performance
16 standards of this Act, and such other requirements as the
17 regulatory authority shall promulgate.

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

21 (1) conduct surface coal mining operations so as to
22 maximize the utilization and conservation of the solid
23 fuel resource being recovered so that re-affecting the land
24 in the future through surface coal mining can be mini-
25 mized;

1 (2) restore the land affected to a condition at least
 2 fully capable of supporting the uses which it was capable
 3 of supporting prior to any mining, or higher or better
 4 uses of which there is a reasonable likelihood, so long as
 5 such use or uses do not present any actual or probable
 6 hazard to public health or safety or pose any actual or
 7 probable threat of water diminution or pollution, and the
 8 permit applicants' declared proposed land use following
 9 reclamation is not deemed to be impractical or unreason-
 10 able, inconsistent with applicable land use policies and
 11 plans, involves unreasonable delay in implementation, or
 12 is violative of Federal, State, or local law;

13 (3) with respect to all surface coal mining opera-
 14 tions backfill, compact (where advisable to insure sta-
 15 bility or to prevent leaching of toxic materials), and
 16 grade in order to restore the approximate original con-
 17 tour of the land with all highwalls, spoil piles, and de-
 18 pressions eliminated (unless small depressions are needed
 19 in order to retain moisture to assist revegetation or as
 20 otherwise authorized pursuant to this Act) : *Provided,*
 21 *however,* That in surface coal mining which is carried
 22 out at the same location over a substantial period of
 23 time where the operation transects the coal deposit, and
 24 the thickness of the coal deposits relative to the vol-
 25 ume of the overburden is large and where the operator

1 demonstrates that the overburden and other spoil and
 2 waste materials at a particular point in the permit area
 3 or otherwise available from the entire permit area is
 4 insufficient, giving due consideration to volumetric ex-
 5 pansion, to restore the approximate original contour,
 6 the operator, at a minimum, shall backfill, grade, and
 7 compact (where advisable) using all available over-
 8 burden and other spoil and waste materials to attain the
 9 lowest practicable grade but not more than the angle
 10 of repose, to provide adequate drainage and to cover all
 11 acid-forming and other toxic materials, in order to
 12 achieve an ecologically sound land use compatible with
 13 the surrounding region: *And provided further,* That in
 14 surface coal mining where the volume of overburden
 15 is large relative to the thickness of the coal deposit and
 16 where the operator demonstrates that due to volumetric
 17 expansion the amount of overburden and other spoil
 18 and waste materials removed in the course of the min-
 19 ing operation is more than sufficient to restore the ap-
 20 proximate original contour, the operator shall after re-
 21 storing the approximate contour, backfill, grade, and
 22 compact (where advisable) the excess overburden and
 23 other spoil and waste materials to attain the lowest
 24 grade but not more than the angle of repose, and to
 25 cover all acid-forming and other toxic materials, in order

1 to achieve an ecologically sound land use compatible
 2 with the surrounding region and that such overburden
 3 or spoil shall be shaped and graded in such a way as to
 4 prevent slides, erosion, and water pollution and is re-
 5 vegetated in accordance with the requirements of this
 6 Act;

7 (4) stabilize and protect all surface areas including
 8 spoil piles affected by the surface coal mining and rec-
 9 lamation operation to effectively control erosion and
 10 attendant air and water pollution;

11 (5) remove the topsoil from the land in a separate
 12 layer, replace it on the backfill area, or, if not utilized
 13 immediately, segregate it in a separate pile from other
 14 spoil and, when the topsoil is not replaced on a backfill
 15 area within a time short enough to avoid deterioration
 16 of the topsoil, maintain a successful cover by quick
 17 growing plant or other means thereafter so that the
 18 topsoil is preserved from wind and water erosion, re-
 19 mains free of any contamination by other acid or toxic
 20 material, and is in a usable condition for sustaining vege-
 21 tation when restored during reclamation, except if top-
 22 soil is of insufficient quantity or of poor quality for sus-
 23 taining vegetation, or if other strata can be shown to
 24 be more suitable for vegetation requirements, then the
 25 operator shall remove, segregate, and preserve in a like

1 manner such other strata which is best able to support
 2 vegetation;

3 (6) restore the topsoil or the best available subsoil
 4 which has been segregated and preserved;

5 (7) protect offsite areas from slides or damage oc-
 6 ccurring during the surface coal mining and reclama-
 7 tion operations, and not deposit spoil material or locate
 8 any part of the operations or waste accumulations out-
 9 side the permit area;

10 (8) create, if authorized in the approved mining
 11 and reclamation plan and permit, permanent impound-
 12 ments of water on mining sites as part of reclamation ac-
 13 tivities only when it is adequately demonstrated that—

14 (A) the size of the impoundment is adequate
 15 for its intended purposes;

16 (B) the impoundment dam construction will
 17 be so designed as to achieve necessary stability
 18 with an adequate margin of safety compatible with
 19 that of structures constructed under Public Law
 20 83-566 (16 U.S.C. 1006);

21 (C) the quality of impounded water will be
 22 suitable on a permanent basis for its intended use
 23 and that discharges from the impoundment will not
 24 degrade the water quality in the receiving stream;

1 (D) the level of water will be reasonably
2 stable;

3 (E) final grading will provide adequate safety
4 and access for proposed water users; and

5 (F) such water impoundments will not result
6 in the diminution of the quality or quantity of water
7 utilized by adjacent or surrounding landowners for
8 agricultural, industrial, recreational, or domestic
9 uses;

10 (9) fill all auger holes with an impervious and
11 noncombustible material in order to prevent drainage;

12 (10) minimize the disturbances to the prevailing
13 hydrologic balance at the minesite and in associated
14 offsite areas and to the quality and quantity of water
15 in surface and ground water systems both during and
16 after surface coal mining operations and during reclama-
17 tion by—

18 (A) avoiding acid or other toxic mine drainage
19 by such measures as, but not limited to—

20 (i) preventing or removing water from
21 contact with toxic producing deposits;

22 (ii) treating drainage to reduce toxic con-
23 tent which adversely affects downstream water
24 upon being released to water courses;

25 (iii) casing, sealing, or otherwise manag-

1 ing boreholes, shafts, and wells and keep acid or
2 other toxic drainage from entering ground and
3 surface waters;

4 (B) conducting surface coal mining operations
5 so as to prevent, to the extent possible using the best
6 technology currently available, additional contribu-
7 tions of suspended solids to streamflow or runoff out-
8 side the permit area above natural levels under sea-
9 sonal flow conditions as measured prior to any min-
10 ing, and avoiding channel deepening or enlargement
11 in operations requiring the discharge of water from
12 mines;

13 (C) removing temporary or large siltation
14 structures from drainways after disturbed areas are
15 revegetated and stabilized;

16 (D) restoring recharge capacity of the mined
17 area to approximate premining conditions;

18 (E) replacing the water supply of an owner
19 of interest in real property who obtains all or part
20 of his supply of water for domestic, agricultural, in-
21 dustrial, or other legitimate use from an underground
22 or surface source where such supply has been af-
23 fected by contamination, diminution, or interrup-
24 tion proximately resulting from mining;

25 (F) preserving throughout the mining and

1 reclamation process the essential hydrologic func-
 2 tions of alluvial valley floors in the arid and semiarid
 3 areas of the country; and

4 (G) such other actions as the regulatory au-
 5 thority may prescribe;

6 (11) with respect to surface disposal of mine wastes,
 7 tailings, coal processing wastes, and other wastes in areas
 8 other than the mine working or excavations, stabilize
 9 all waste piles in designated areas through construction
 10 in compacted layers including the use of incombustible
 11 and impervious materials if necessary and assure the
 12 final contour of the waste pile will be compatible with
 13 natural surroundings and that the site can and will be
 14 stabilized and revegetated according to the provisions of
 15 this Act;

16 (12) refrain from surface coal mining within five
 17 hundred feet from active and abandoned underground
 18 mines in order to prevent break-throughs and to protect
 19 health or safety of miners: *Provided*, That the regula-
 20 tory authority shall permit an operator to mine closer to
 21 an abandoned underground mine: *Provided*, That this
 22 does not create hazards to the health and safety of min-
 23 ers; or shall permit an operator to mine near, through,
 24 or partially through an abandoned underground mine
 25 working where such mining through will achieve im-

1 proved resource recovery, abatement of water pollution
 2 or elimination of public hazards and such mining shall
 3 be consistent with the provisions of the Act;

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

12 (14) insure that all debris, acid forming materials,
 13 toxic materials, or materials constituting a fire hazard
 14 are treated or disposed of in a manner designed to pre-
 15 vent contamination of ground or surface waters or sus-
 16 tained combustion;

17 (15) insure that explosives are used only in accord-
 18 ance with existing State and Federal law and the regula-
 19 tions promulgated by the regulatory authority, which
 20 shall include provisions to—

21 (A) provide adequate advance written notice
 22 by publication and/or posting of the planned blast-
 23 ing schedule to local governments and to residents
 24 who might be affected by the use of such explosives
 25 and maintain for a period of at least two years a log

1 of the magnitudes and times of blasts; and

2 (B) limit the type of explosives and detonating
3 equipment, the size, the timing and frequency of
4 blasts based upon the physical conditions of the site
5 so as to prevent (i) injury to persons, (ii) damage
6 to public and private property outside the permit
7 area, (iii) adverse impacts on any underground
8 mine, and (iv) change in the course, channel, or
9 availability of ground or surface water outside the
10 permit area;

11 (16) insure that all reclamation efforts proceed in
12 an environmentally sound manner and as contemporan-
13 eously as practicable with the surface coal mining
14 operations;

15 (17) insure that the construction, maintenance, and
16 postmining conditions of access roads into and across the
17 site of operations will control or prevent erosion and silta-
18 tion, pollution of water, damage to fish or wildlife or
19 their habitat, or public or private property: *Provided,*
20 That the regulatory authority may permit the retention
21 after mining of certain access roads where consistent
22 with State and local land use plans and programs and
23 where necessary may permit a limited exception to the
24 restoration of approximate original contour for that
25 purpose;

1 (18) refrain from the construction of roads or other
2 access ways up a stream bed or drainage channel or in
3 such proximity to each channel so as to seriously alter
4 the normal flow of water;

5 (19) establish on the regraded areas, and all other
6 lands affected, a diverse, effective, and permanent vegeta-
7 tive cover native to the area of land to be affected and
8 capable of self-regeneration and plant succession at least
9 equal in extent of cover to the natural vegetation of the
10 area; except, that introduced species may be used in the
11 revegetation process where desirable and necessary to
12 achieve the approved postmining land use plan;

13 (20) assume the responsibility for successful re-
14 vegetation, as required by paragraph (19) above, for a
15 period of five full years after the last year of augmented
16 seeding, fertilizing, irrigation, or other work in order to
17 assure compliance with paragraph (19) above, except
18 in those areas or regions of the country where the annual
19 average precipitation is twenty-six inches or less, then
20 the operator's assumption of responsibility and liability
21 will extend for a period of ten full years after the last
22 year of augmented seeding, fertilizing, irrigation, or
23 other work: *Provided,* That when the regulatory author-
24 ity approves a long-term intensive agricultural postmin-
25 ing land use, the applicable five- or ten-year period of

1 responsibility for revegetation shall commence at the
 2 date of initial planting for such long-term intensive agri-
 3 cultural postmining land use: *Provided further*, That
 4 when the regulatory authority issues a written finding
 5 approving a long-term, intensive, agricultural postmin-
 6 ing land use as part of the mining and reclamation plan,
 7 the authority may grant exception to the provisions of
 8 paragraph (19) above; and

9 (21) meet such other criteria as are necessary to
 10 achieve reclamation in accordance with the purposes of
 11 this Act, taking into consideration the physical, climato-
 12 logical, and other characteristics of the site, and to insure
 13 the maximum practicable recovery of the mineral
 14 resources.

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

19 (2) Where an applicant meets the requirements of para-
 20 graphs (3) and (4) of this subsection a variance from the
 21 requirement to restore to approximate original contour set
 22 forth in subsection 515 (b) (3) or 515 (d) of this section
 23 may be granted for the surface mining of coal where the
 24 mining operation will remove an entire coal seam or seams
 25 running through the upper fraction of a mountain, ridge, or

1 hill (except as provided in subsection (c) (4) (A) hereof)
 2 by removing all of the overburden and creating a level
 3 plateau or a gently rolling contour with no highwalls remain-
 4 ing, and capable of supporting postmining uses in accord
 5 with the requirements of this subsection.

6 (3) In cases where an industrial, commercial (including
 7 commercial agricultural), residential or public facility (in-
 8 cluding recreational facilities) development is proposed for
 9 the postmining use of the affected land, the regulatory au-
 10 thority may grant a variance for a surface mining operation
 11 of the nature described in subsection (c) (2) where—

12 (A) after consultation with the appropriate land
 13 use planning agencies, if any, the proposed development
 14 is deemed to constitute an equal or better economic or
 15 public use of the affected land, as compared with the pre-
 16 mining use;

17 (B) the equal or better economic or public use can
 18 be obtained only if one or more exceptions to the re-
 19 quirements of section 515 (b) (3) are granted;

20 (C) the applicant presents specific plans for the
 21 proposed postmining land use and appropriate assur-
 22 ances that such use will be—

23 (i) compatible with adjacent land uses;

24 (ii) obtainable according to data regarding ex-
 25 pected need and market;

1 (iii) assured of investment in necessary public
2 facilities;

3 (iv) supported by commitments from public
4 agencies where appropriate;

5 (v) practicable with respect to private financial
6 capability for completion of the proposed develop-
7 ment;

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

12 (vii) designed by a registered engineer in con-
13 formance with professional standards established
14 to assure the stability, drainage, and configuration
15 necessary for the intended use of the site;

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

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

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

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

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

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

10 (B) the reclaimed area is stable;

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

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

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

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

20 (6) All exceptions granted under the provisions of this
21 subsection shall be reviewed not more than three years from
22 the date of issuance of the permit, unless the applicant affirm-
23 atively demonstrates that the proposed development is pro-
24 ceeding in accordance with the terms of the approved sched-
25 ule and reclamation plan.

1 (d) The following performance standards shall be appli-
 2 cable to steep-slope surface coal mining and shall be in those
 3 general performance standards required by this section:
 4 *Provided, however,* That the provisions of this subsection (d)
 5 shall not apply to those situations in which an operator is
 6 mining on flat or gently rolling terrain, on which an occa-
 7 sional steep slope is encountered through which the mining
 8 operation is to proceed, leaving a plain or predominantly
 9 flat area:

10 (1) Insure that when performing surface coal mining
 11 on steep slopes, no debris, abandoned or disabled equipment,
 12 spoil material, or waste mineral matter be placed on the
 13 downslope below the bench or mining cut, except that where
 14 necessary soil or spoil material from the initial block or short
 15 linear cut of earth necessary to obtain initial access to the
 16 coal seam in a new surface coal mining operation can be
 17 placed on a limited and specified area of the downslope
 18 below the initial cut if the permittee demonstrates that such
 19 soil or spoil material will not slide and that the other require-
 20 ments of this subsection can still be met: *Provided,* That
 21 spoil material in excess of that required for the reconstruction
 22 of the approximate original contour under the provisions
 23 of paragraph 515 (b) (3) or 515 (d) (2) or excess spoil from
 24 a surface coal mining operation granted a variance under sub-
 25 section 515 (c) may be permanently stored at such offsite

1 spoil storage areas as the regulatory authority shall designate
 2 and for the purposes of this Act such areas shall be deemed in
 3 all respects to be part of the lands affected by surface coal
 4 mining operations. Such offsite spoil storage areas shall be
 5 designed by a registered engineer in conformance with pro-
 6 fessional standards established to assure the stability, drain-
 7 age, and configuration necessary for the intended use of the
 8 site.

9 (2) Complete backfilling with spoil material shall be
 10 required to cover completely the highwall and return the
 11 site to the approximate original contour, which material will
 12 maintain stability following mining and reclamation.

13 (3) The operator may not disturb land above the top
 14 of the highwall unless the regulatory authority finds that such
 15 disturbance will facilitate compliance with the environmental
 16 protection standards of this section: *Provided, however,* That
 17 the land disturbed above the highwall shall be limited to that
 18 amount necessary to facilitate said compliance.

19 (4) For the purposes of this section, the term "steep
 20 slope" is any slope above twenty degrees or such lesser slope
 21 as may be defined by the regulatory authority after consider-
 22 ation of soil, climate, and other characteristics of a region
 23 or State.

24 (e) The Secretary, with the written concurrence of the
 25 Chief of Engineers, shall establish within one hundred and

1 thirty-five days from the date of enactment, standards and
 2 criteria regulating the design, location, construction, opera-
 3 tion, maintenance, enlargement, modification, removal, and
 4 abandonment of new and existing coal mine waste piles
 5 referred to in section 515 (b) (13) and section 516 (b) (5).
 6 Such standards and criteria shall conform to the standards
 7 and criteria used by the Chief of Engineers to insure that
 8 flood control structures are safe and effectively perform their
 9 intended function. In addition to engineering and other tech-
 10 nical specifications the standards and criteria developed pur-
 11 suant to this subsection must include provisions for: review
 12 and approval of plans and specifications prior to construc-
 13 tion, enlargement, modification, removal, or abandonment;
 14 performance of periodic inspections during construction; is-
 15 suance of certificates of approval upon completion of con-
 16 struction; performance of periodic safety inspections; and
 17 issuance of notices for required remedial or maintenance
 18 work.

19 SURFACE EFFECTS OF UNDERGROUND COAL MINING

20 OPERATIONS

21 SEC. 516. (a) The Secretary shall promulgate rules
 22 and regulations directed toward the surface effects of under-
 23 ground coal mining operations, embodying the following
 24 requirements and in accordance with the procedures estab-
 25 lished under section 501 of this Act.

26 (b) Each permit issued under any approved State or

1 Federal program pursuant to this Act and relating to
 2 underground coal mining shall require the operator to—

3 (1) adopt measures consistent with known tech-
 4 nology in order to prevent subsidence to the extent
 5 technologically and economically feasible, maximize
 6 mine stability, and maintain the value and use of such
 7 surface lands, except in those instances where the
 8 mining technology used requires planned subsidence in
 9 a predictable and controlled manner: *Provided*, That
 10 nothing in this subsection shall be construed to prohibit
 11 the standard method of room and pillar continuous
 12 mining;

13 (2) seal all portals, entryways, drifts, shafts, or
 14 other openings between the surface and underground
 15 mine working when no longer needed for the conduct
 16 of the mining operations;

17 (3) fill or seal exploratory holes no longer neces-
 18 sary for mining, maximizing to the extent practicable
 19 return of mine and processing waste, tailings, and any
 20 other waste incident to the mining operation, to the
 21 mine workings or excavations;

22 (4) with respect to surface disposal of mine
 23 wastes, tailings, coal processing wastes, and other wastes
 24 in areas other than the mine workings or excavations,
 25 stabilize all waste piles created by the permittee from
 26 current operations through construction in compacted

1 layers including the use of incombustible and impervi-
 2 ous materials if necessary and assure that the leachate
 3 will not pollute surface or ground waters and that the
 4 final contour of the waste accumulation will be com-
 5 patible with natural surroundings and that the site is
 6 stabilized and revegetated according to the provisions
 7 of this section;

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

15 (6) establish on regraded areas and all other lands
 16 affected, a diverse and permanent vegetative cover ca-
 17 capable of self-regeneration and plant succession and at
 18 least equal in extent of cover to the natural vegetation of
 19 the area;

20 (7) protect offsite areas from damages which may
 21 result from such mining operations;

22 (8) eliminate fire hazards and otherwise eliminate
 23 conditions which constitute a hazard to health and safety
 24 of the public;

25 (9) minimize the disturbances to the prevailing

1 hydrologic balance at the mine-site and in associated off-
 2 site areas and to the quantity of water in surface ground
 3 water systems both during and after coal mining opera-
 4 tions and during reclamation by—

5 (A) avoiding acid or other toxic mine drainage
 6 by such measures as, but not limited to—

7 (i) preventing or removing water from
 8 contact with toxic producing deposits;

9 (ii) treating drainage to reduce toxic con-
 10 tent which adversely affects downstream water
 11 upon being released to water courses;

12 (iii) casing, sealing, or otherwise manag-
 13 ing boreholes, shafts, and wells to keep acid or
 14 other toxic drainage from entering ground and
 15 surface waters; and

16 (B) conducting surface coal mining operations
 17 so as to prevent, to the extent possible using the best
 18 technology currently available, additional contribu-
 19 tions of suspended solids to streamflow or runoff out-
 20 side the permit area above natural levels under sea-
 21 sonal flow conditions as measured prior to any min-
 22 ing, and avoiding channel deepening or enlargement
 23 in operations requiring the discharge of water from
 24 mines.

25 (10) with respect to other surface impacts not

1 specified in this subsection including the construction
 2 of new roads or the improvement or use of existing
 3 roads to gain access to the site of such activities and
 4 for haulage, repair areas, storage areas, processing
 5 areas, shipping areas and other areas upon which are
 6 sited structures, facilities, or other property or materials
 7 on the surface, resulting from or incident to such activi-
 8 ties, operate in accordance with the standards estab-
 9 lished under section 515 of this title for such effects
 10 which result from surface coal mining operation: *Pro-*
 11 *vided*, That the Secretary may make such modifications
 12 in the requirements imposed by this subparagraph as
 13 are deemed necessary by the Secretary due to the dif-
 14 ferences between surface and underground coal mining.

15 (c) In order to protect the stability of the land, the
 16 regulatory authority shall suspend underground coal mining
 17 under urbanized areas, cities, towns, and communities and
 18 adjacent to industrial or commercial buildings, major im-
 19 poundments, or permanent streams if he finds imminent
 20 danger to inhabitants of the urbanized areas, cities, towns,
 21 and communities.

22 (d) The provisions of title V of this Act relating to
 23 State and Federal programs, permits, bonds, inspections and
 24 enforcement, public review, and administrative and judicial
 25 review shall be applicable to surface coal mining and recla-

1 mation operations incident to underground coal mining with
 2 such modifications to the permits application requirements,
 3 permit approval or denial procedures, and bond requirements
 4 as are deemed necessary by the Secretary due to the
 5 differences between surface and underground coal mining.
 6 The Secretary shall promulgate such modifications in accord-
 7 ance with the rulemaking procedure established in section
 8 501 of this Act.

9 INSPECTIONS AND MONITORING

10 SEC. 517. (a) The Secretary shall cause to be made such
 11 inspections of any surface coal mining and reclamation
 12 operations as are necessary to evaluate the administration of
 13 approved State programs, or to develop or enforce any Fed-
 14 eral program, and for such purposes authorized representa-
 15 tives of the Secretary shall have a right of entry to, upon, or
 16 through any surface coal mining and reclamation operations.

17 (b) For the purpose of developing or assisting in the
 18 development, administration, and enforcement of any ap-
 19 proved State or Federal program under this Act or in the
 20 administration and enforcement of any permit under this Act,
 21 or of determining whether any person is in violation of any
 22 requirement of any such State or Federal program or any
 23 other requirement of this Act—

24 (1) the regulatory authority shall require any per-
 25 mittee to (A) establish and maintain appropriate rec-

1 ords, (B) make monthly reports to the regulatory
 2 authority, (C) install, use, and maintain any necessary
 3 monitoring equipment or methods, (D) evaluate results
 4 in accordance with such methods, at such locations,
 5 intervals, and in such manner as a regulatory authority
 6 shall prescribe, and (E) provide such other information
 7 relative to surface coal mining and reclamation operations
 8 as the regulatory authority deems reasonable and neces-
 9 sary;

10 (2) for those surface coal mining and reclamation
 11 operations which remove or disturb strata that serve
 12 as aquifers which significantly insure the hydrologic
 13 balance of water use either on or off the mining site,
 14 the regulatory authority shall specify those—

15 (A) monitoring sites to record the quantity and
 16 quality of surface drainage above and below the
 17 minesite as well as in the potential zone of influence;

18 (B) monitoring sites to record level, amount,
 19 and samples of ground water and aquifers poten-
 20 tially affected by the mining and also directly below
 21 the lowermost (deepest) coal seam to be mined;

22 (C) records of well logs and borehole data to
 23 be maintained; and

24 (D) monitoring sites to record precipitation.

25 The monitoring data collection and analysis required

1 by this section shall be conducted according to standards
 2 and procedures set forth by the regulatory authority in
 3 order to assure their reliability and validity; and

4 (3) the authorized representatives of the regulatory
 5 authority, without advance notice and upon presenta-
 6 tion of appropriate credentials (A) shall have the right
 7 of entry to, upon, or through any surface coal mining
 8 and reclamation operations or any premises in which
 9 any records required to be maintained under paragraph
 10 (1) of this subsection are located; and (B) may at
 11 reasonable times, and without delay, have access to and
 12 copy any records, inspect any monitoring equipment or
 13 method of operation required under this Act.

14 (c) The inspections by the regulatory authority shall
 15 (1) occur on an irregular basis averaging not less than one
 16 inspection per month for the surface coal mining and recla-
 17 mation operations covered by each permit; (2) occur with-
 18 out prior notice to the permittee or his agents or employees;
 19 and (3) include the filing of inspection reports adequate to
 20 enforce the requirements of and to carry out the terms and
 21 purposes of this Act and the regulatory authority shall make
 22 copies of such inspection reports immediately and freely
 23 available to the public at a central location in the pertinent
 24 geographic area of mining. The Secretary or regulatory au-
 25 thority shall establish a system of continual rotation of inspec-

1 tors so that the same inspector does not consistently visit the
2 same operations.

3 (d) Each permittee shall conspicuously maintain at the
4 entrances to the surface coal mining and reclamation opera-
5 tions a clearly visible sign which sets forth the name, busi-
6 ness address, and phone number of the permittee and the
7 permit number of the surface coal mining and reclamation
8 operations.

9 (e) Each inspector, upon detection of each violation of
10 any requirement of any State or Federal program or of this
11 Act, shall forthwith inform the operator in writing, and shall
12 report in writing any such violation to the regulatory
13 authority.

14 (f) Copies of any records, reports, inspection materials,
15 or information obtained under this title by the regulatory
16 authority shall be made immediately available to the public
17 at central and sufficient locations in the county, multicounty,
18 and State area of mining so that they are conveniently avail-
19 able to residents in the areas of mining.

20 (g) No employee of the State regulatory authority per-
21 forming any function or duty under this Act shall have a
22 direct or indirect financial interest in any underground or
23 surface coal mining operation. Whoever knowingly vio-
24 lates the provisions of the above sentence shall, upon convic-
25 tion, be punished by a fine of not more than \$2,500, or

1 by imprisonment of not more than one year, or by both. The
2 Secretary shall (1) within sixty days after enactment of
3 this Act, publish in the Federal Register, in accordance with
4 section 553 of title 5, United States Code, regulations to
5 establish methods by which the provisions of this subsection
6 will be monitored and enforced by the Secretary and such
7 State regulatory authority, including appropriate provisions
8 for the filing by such employees and the review of statements
9 and supplements thereto concerning any financial interest
10 which may be affected by this subsection, and (2) report
11 to the Congress on March 1 of each calendar year on actions
12 taken and not taken during the preceding year under this
13 subsection.

14 PENALTIES

15 SEC. 518. (a) In the enforcement of a Federal program
16 or Federal lands program, or during Federal enforcement pur-
17 suant to section 502 or during Federal enforcement of a State
18 program pursuant to section 521 of this Act, any permittee
19 who violates any permit condition or who violates any other
20 provision of this title, may be assessed a civil penalty by
21 the Secretary, except that if such violation leads to the issu-
22 ance of a cessation order under section 521, the civil penalty
23 shall be assessed. Such penalty shall not exceed \$5,000 for
24 each violation. Each day of continuing violation may be
25 deemed a separate violation for purposes of penalty assess-

1 ments. In determining the amount of the penalty, considera-
 2 tion shall be given to the permittee's history of previous viola-
 3 tions at the particular surface coal mining operation; the ap-
 4 propriateness of such penalty to the size of the business of the
 5 permittee charged; the seriousness of the violation, including
 6 any irreparable harm to the environment and any hazard to
 7 the health or safety of the public; whether the permittee was
 8 negligent; and the demonstrated good faith of the permittee
 9 charged in attempting to achieve rapid compliance after noti-
 10 fication of the violation.

11 (b) A civil penalty shall be assessed by the Secretary
 12 only after the person charged with a violation described
 13 under subsection (a) of this section has been given an op-
 14 portunity for a public hearing. Where such a public hearing
 15 has been held, the Secretary shall make findings of fact,
 16 and he shall issue a written decision as to the occurrence
 17 of the violation and the amount of the penalty which is war-
 18 ranted, incorporating, when appropriate, an order therein
 19 requiring that the penalty be paid. When appropriate, the
 20 Secretary shall consolidate such hearings with other pro-
 21 ceedings under section 521 of this Act. Any hearing under
 22 this section shall be of record and shall be subject to section
 23 554 of title 5 of the United States Code. Where the person
 24 charged with such a violation fails to avail himself of the
 25 opportunity for a public hearing, a civil penalty shall be

1 assessed by the Secretary after the Secretary has determined
 2 that a violation did occur, and the amount of the penalty
 3 which is warranted, and has issued an order requiring that
 4 the penalty be paid.

5 (c) If no complaint, as provided in this section, is filed
 6 within thirty days from the date of the final order or decision
 7 issued by the Secretary under subsection (b) of this section,
 8 such order and decision shall be conclusive.

9 (d) Interest at the rate of 6 per centum or at the
 10 prevailing Department of the Treasury borrowing rate,
 11 whichever is greater, shall be charged against a person on
 12 any unpaid civil penalty assessed against him pursuant to
 13 the final order of the Secretary, said interest to be computed
 14 from the thirty-first day after issuance of such final assess-
 15 ment order.

16 (e) Civil penalties owed under this Act, either pur-
 17 suant to subsection (c) of this section or pursuant to an en-
 18 forcement order entered under section 526 of this Act, may
 19 be recovered in a civil action brought by the Attorney Gen-
 20 eral at the request of the Secretary in any appropriate dis-
 21 trict court of the United States.

22 (f) Any person who willfully and knowingly violates a
 23 condition of a permit issued pursuant to a Federal program,
 24 a Federal lands program or Federal enforcement pursuant to
 25 section 502 or during Federal enforcement of a State pro-

1 gram pursuant to section 525 of this Act or fails or refuses to
 2 comply with any order issued under section 525 or section
 3 526 of this Act, or any order incorporated in a final decision
 4 issued by the Secretary under this Act, except an order in-
 5 corporated in a decision issued under subsection (b) of this
 6 section or section 704 of this Act, shall, upon conviction,
 7 be punished by a fine of not more than \$10,000, or by im-
 8 prisonment for not more than one year or both.

9 (g) Whenever a corporate permittee violates a condi-
 10 tion of a permit issued pursuant to a Federal program, a
 11 Federal lands program or Federal enforcement pursuant to
 12 section 502 or Federal enforcement of a State program
 13 pursuant to section 521 of this Act or fails or refuses to
 14 comply with any order issued under section 521 of this
 15 Act, or any order incorporated in a final decision issued by
 16 the Secretary under this Act except an order incorporated
 17 in a decision issued under subsection (b) of this section
 18 or section 704 of this Act, any director, officer, or agent of
 19 such corporation who willfully and knowingly authorized,
 20 ordered, or carried out such violation, failure, or refusal shall
 21 be subject to the same civil penalties, fines, and imprisonment
 22 that may be imposed upon a person under subsections (a)
 23 and (f) of this section.

24 (h) Whoever knowingly makes any false statement,
 25 representation, or certification, or knowingly fails to make

1 any statement, representation, or certification in any appli-
 2 cation, record, report, plan, or other document filed or re-
 3 quired to be maintained pursuant to a Federal program or a
 4 Federal lands program or any order or decision issued by
 5 the Secretary under this Act, shall, upon conviction, be pun-
 6 ished by a fine of not more than \$10,000, or by imprison-
 7 ment for not more than one year or both.

8 (i) As a condition of approval of any State program
 9 submitted pursuant to section 503 of this Act, the civil and
 10 criminal penalty provisions thereof shall, at a minimum, in-
 11 corporate penalties no less stringent than those set forth in
 12 this section, and shall contain the same or similar procedural
 13 requirements relating thereto.

14 RELEASE OF PERFORMANCE BONDS OR DEPOSITS

15 SEC. 519. (a) The permittee may file a request with the
 16 regulatory authority for the release of all or part of a per-
 17 formance bond or deposit. Within thirty days after any ap-
 18 plication for bond or deposit release has been filed with the
 19 regulatory authority, the operator shall submit a copy of an
 20 advertisement placed on five successive days in a newspaper
 21 of general circulation in the locality of the surface coal min-
 22 ing operation. Such advertisement shall be considered part of
 23 any bond release application and shall contain a notification
 24 of the precise location of the land affected, the number of

1 acres, the permit number and the date approved, the amount
 2 of the bond filed and the portion sought to be released, and
 3 the type and the approximate dates of reclamation work per-
 4 formed, and a description of the results achieved as they
 5 relate to the operator's approved reclamation plan. In ad-
 6 dition, as part of any bond release application, the appli-
 7 cant shall submit copies of letters which he has sent to adjoin-
 8 ing property owners, local governmental bodies, planning
 9 agencies, and sewage and water treatment authorities, or
 10 water companies in the locality in which the surface coal min-
 11 ing and reclamation activities took place, notifying them of
 12 his intention to seek release from the bond.

13 (b) Upon receipt of the notification and request, the
 14 regulatory authority shall within a reasonable time conduct
 15 an inspection and evaluation of the reclamation work in-
 16 volved. Such evaluation shall consider, among other things,
 17 the degree of difficulty to complete any remaining reclama-
 18 tion, whether pollution of surface and subsurface water is oc-
 19 curring, the probability of continuance of future occurrence
 20 of such pollution, and the estimated cost of abating such
 21 pollution.

22 (c) The regulatory authority may release in whole or in
 23 part said bond or deposit if the authority is satisfied the rec-
 24 lamation covered by the bond or deposit or portion thereof

1 has been accomplished as required by this Act according to
 2 the following schedule:

3 (1) When the operator completes the backfilling,
 4 regarding, and drainage control of a bonded area in
 5 accordance with his approved reclamation plan, the
 6 release of 60 per centum of the bond or collateral for the
 7 applicable permit area;

8 (2) After revegetation has been established on the
 9 regraded mined lands in accordance with the approved
 10 reclamation plan. When determining the amount of bond
 11 to be released after successful revegetation has been es-
 12 tablished, the regulatory authority shall retain that
 13 amount of bond for the revegetated area which would be
 14 sufficient for a third party to cover the cost of reestab-
 15 lishing revegetation and for the period specified for
 16 operator responsibility in section 515 of reestablishing
 17 revegetation. No part of the bond or deposit shall be
 18 released under this paragraph so long as the lands to
 19 which the release would be applicable are contributing
 20 suspended solids to streamflow or runoff outside the
 21 permit area above natural levels under seasonal flow
 22 conditions as measured prior to any mining and as set
 23 forth in the permit.

24 (3) When the operator has completed successfully
 25 all surface coal mining and reclamation activities, but not

1 before the expiration of the period specified for operator
2 responsibility in section 515:

3 *Provided, however,* That no bond shall be fully released until
4 all reclamation requirements of this Act are fully met.

5 (d) If the regulatory authority disapproves the applica-
6 tion for release of the bond or portion thereof, the authority
7 shall notify the permittee, in writing, stating the reasons for
8 disapproval and recommending corrective actions necessary
9 to secure said release.

10 (e) With any application for total or partial bond re-
11 lease filed with the regulatory authority, the regulatory
12 authority shall notify the municipality in which a surface
13 coal mining operation is located by certified mail at least
14 thirty days prior to the release of all or a portion of the bond.

15 (f) Any person with a valid legal interest or the officer
16 or head of any Federal, State, or local governmental agency
17 shall have the right to file written objections to the proposed
18 release from bond to the regulatory authority within thirty
19 days after the last publication of the above notice. If written
20 objections are filed, and a hearing requested, the regulatory
21 authority shall inform all the interested parties, of the time
22 and place of the hearing, and hold a public hearing in the
23 locality of the surface coal mining operation proposed for
24 bond release within thirty days of the request for such hear-
25 ing. The date, time, and location of such public hearings shall

1 be advertised by the regulatory authority in a newspaper of
2 general circulation in the locality twice a week for two con-
3 secutive weeks.

4 (g) For the purpose of such hearing the regulatory
5 authority shall have the authority and is hereby empowered
6 to administer oaths, subpoena witnesses, or written or printed
7 materials, compel the attendance of witnesses, or production
8 of the materials, and take evidence including but not limited
9 to inspections of the land affected and other surface coal min-
10 ing operations carried on by the applicant in the general
11 vicinity. A verbatim transcript and a complete record of each
12 public hearing shall be ordered by the regulatory authority.

13 CITIZEN SUITS

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

18 (1) against any person including—

19 (A) the United States,

20 (B) any other governmental instrumentality

21 or agency to the extent permitted by the eleventh
22 amendment to the Constitution who is alleged to be
23 in violation of the provisions of this Act or the regu-
24 lations promulgated thereunder, or order issued by
25 the regulatory authority,

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

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

11 (b) No action may be commenced—

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

13 (A) prior to sixty days after the plaintiff has
14 given notice in writing under oath of the violation

15 (i) to the Secretary, (ii) to the State in which the
16 violation occurs, and (iii) to any alleged violator;
17 or

18 (B) if the Secretary or the State has com-
19 menced and is diligently prosecuting a civil action
20 in a court of the United States or a State to require
21 compliance with the provisions of this Act, or any
22 rule, regulation, order, or permit issued pursuant to
23 this Act, but in any such action in a court of the
24 United States any person may intervene as a matter
25 of right; or

1 (2) under subsection (a) (2) of this section prior
2 to sixty days after the plaintiff has given notice in
3 writing under oath of such action to the Secretary, in
4 such manner as the Secretary shall by regulation pre-
5 scribe, or to the appropriate State regulatory authority,
6 except that such action may be brought immediately
7 after such notification in the case where the violation
8 or order complained of constitutes an imminent threat
9 to the health or safety of the plaintiff or would im-
10 mediately affect a legal interest of the plaintiff.

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

15 (2) In such action under this section, the Secretary,
16 or the State regulatory authority, if not a party, may inter-
17 vene as a matter of right.

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

25 (e) Nothing in this section shall restrict any right which

1 any person (or class of persons) may have under this or any
 2 statute or common law to seek enforcement of any of the
 3 provisions of this Act and the regulations thereunder, or to
 4 seek any other relief (including relief against the Secretary
 5 or the appropriate State regulatory authority).

6 (f) Any resident of the United States who is injured in
 7 any manner through the failure of any operator to comply
 8 with any rule, regulation, order, or permit issued pursuant to
 9 this Act may bring an action for damages (including attorney
 10 fees) in an appropriate United States district court.

11 ENFORCEMENT

12 SEC. 521. (a) (1) Whenever, on the basis of any in-
 13 formation available to him, including receipt of information
 14 from any person, the Secretary has reason to believe that
 15 any person is in violation of any requirement of this Act or
 16 any permit condition required by this Act, the Secretary
 17 shall notify the State regulatory authority, if one exists, in
 18 the State in which such violation exists. If no such State
 19 authority exists or the State regulatory authority fails within
 20 ten days after notification to take appropriate action to cause
 21 said violation to be corrected or to show good cause for such
 22 failure and transmit notification of its action to the Secretary,
 23 the Secretary shall immediately order Federal inspection of
 24 the surface coal mining operation at which the alleged viola-
 25 tion is occurring unless the information available to the

1 Secretary is a result of a previous Federal inspection of such
 2 surface coal mining operation. When the Federal inspection
 3 results from information provided to the Secretary by any
 4 person, the Secretary shall notify such person when the
 5 Federal inspection is proposed to be carried out and such
 6 person shall be allowed to accompany the inspector during
 7 the inspection.

8 (2) When, on the basis of any Federal inspection, the
 9 Secretary or his authorized representative determines that
 10 any condition or practices exist, or that any permittee is in
 11 violation of any requirement of this Act or any permit condi-
 12 tion required by this Act, which condition, practice, or viola-
 13 tion also creates an imminent danger to the health or safety
 14 of the public, or is causing, or can reasonably be expected
 15 to cause significant, imminent environmental harm to land,
 16 air, or water resources, the Secretary or his authorized repre-
 17 sentative shall immediately order a cessation of surface coal
 18 mining and reclamation operations or the portion thereof
 19 relevant to the condition, practice, or violation. Such cessa-
 20 tion order shall remain in effect until the Secretary or his au-
 21 thorized representative determines that the condition, prac-
 22 tice, or violation has been abated, or until modified, vacated,
 23 or terminated by the Secretary or his authorized representa-
 24 tive pursuant to subparagraph (a) (5) of this section.

1 (3) When, on the basis of a Federal inspection which
 2 is carried out during the enforcement of a Federal program
 3 or a Federal lands program, Federal inspection pursuant to
 4 section 502, or section 504 (b) or during Federal enforce-
 5 ment of a State program in accordance with subsection (b)
 6 of this section, the Secretary or his authorized representa-
 7 tive determines that any permittee is in violation of any re-
 8 quirement of this Act or any permit condition required by
 9 this Act, but such violation does not create an imminent dan-
 10 ger to the health or safety of the public, or cause or can be
 11 reasonably expected to cause significant, imminent environ-
 12 mental harm to land, air, or water resources, the Secretary
 13 or authorized representative shall issue a notice to the per-
 14 mittee or his agent fixing a reasonable time but not more
 15 than ninety days for the abatement of the violation.

16 If, upon expiration of the period of time as originally
 17 fixed or subsequently extended, for good cause shown and
 18 upon the written finding of the Secretary or his authorized
 19 representative, the Secretary or his authorized representative
 20 finds that the violation has not been abated, he shall immedi-
 21 ately order a cessation of surface coal mining and reclamation
 22 operations or the portion thereof relevant to the violation.
 23 Such cessation order shall remain in effect until the Secretary
 24 or his authorized representative determines that the viola-
 25 tion has been abated, or until modified, vacated, or termi-

1 nated by the Secretary or his authorized representative
 2 pursuant to subparagraph (a) (5) of this section.

3 (4) When, on the basis of a Federal inspection which
 4 is carried out during the enforcement of a Federal program
 5 or a Federal lands program, Federal inspection pursuant to
 6 section 502 or section 504 (b) or during Federal enforce-
 7 ment of a State program in accordance with subsection (b)
 8 of this section, the Secretary or his authorized representative
 9 determines that a pattern of violations of any requirements
 10 of this Act or any permit conditions required by this Act
 11 exists or has existed, and if the Secretary or his authorized
 12 representative also find that such violations are caused by
 13 the unwarranted failure of the permittee to comply with any
 14 requirements of this Act or any permit conditions, or that
 15 such violations are willfully caused by the permittee, the
 16 Secretary or his authorized representative shall forthwith
 17 issue an order to the permittee to show cause as to why
 18 the permit should not be suspended or revoked. Upon the
 19 permittee's failure to show cause as to why the permit should
 20 not be suspended or revoked, the Secretary or his authorized
 21 representative shall forthwith suspend or revoke the permit.

22 (5) Notices and orders issued pursuant to this section
 23 shall set forth with reasonable specificity the nature of the
 24 violation and the remedial action required, the period of
 25 time established for abatement, and a reasonable description

1 of the portion of the surface coal mining and reclamation
 2 operation to which the notice or order applies. Each notice
 3 or order issued under this section shall be given promptly
 4 to the permittee or his agent by the Secretary or this author-
 5 ized representative who issues such notice or order, and
 6 all such notices and orders shall be in writing and shall be
 7 signed by such authorized representatives. Any notice or
 8 order issued pursuant to this section may be modified,
 9 vacated, or terminated by the Secretary or his authorized
 10 representative. A copy of any such order or notice shall be
 11 sent to the State regulatory authority in the State in which
 12 the violation occurs.

13 (b) Whenever the Secretary finds that violations of
 14 an approved State program appear to result from a failure
 15 of the State to enforce such State program effectively, he
 16 shall so notify the State. If the Secretary finds that such
 17 failure extends beyond thirty days after such notice, he shall
 18 give public notice of such finding. During the period be-
 19 ginning with such public notice and ending when such State
 20 satisfies the Secretary that it will enforce this Act, the
 21 Secretary shall enforce any permit condition required under
 22 this Act, shall issue new or revised permits in accordance
 23 with requirements of this Act, and may issue such notices
 24 and orders as are necessary for compliance therewith.

25 (c) The Secretary may request the Attorney General

1 to institute a civil action for relief, including a permanent
 2 or temporary injunction, restraining order, or any other
 3 appropriate order in the district court of the United States
 4 for the district in which the surface coal mining and reclama-
 5 tion operation is located or in which the permittee thereof
 6 has his principal office, whenever such permittee or his
 7 agent (A) violates or fails or refuses to comply with any
 8 order or decision issued by the Secretary under this Act, or
 9 (B) interferes with, hinders, or delays the Secretary or his
 10 authorized representatives in carrying out the provisions of
 11 this Act, or (C) refuses to admit such authorized repre-
 12 sentative to the mine, or (D) refuses to permit inspection
 13 of the mine by such authorized representative, or (E)
 14 refuses to furnish any information or report requested by the
 15 Secretary in furtherance of the provisions of this Act, or
 16 (F) refuses to permit access to, and copying of, such records
 17 as the Secretary determines necessary in carrying out the
 18 provisions of this Act. Such court shall have jurisdiction to
 19 provide such relief as may be appropriate. Temporary re-
 20 straining orders shall be issued in accordance with rule 65
 21 of the Federal Rules of Civil Procedure, as amended. Any
 22 relief granted by the court to enforce an order under clause
 23 (A) of this section shall continue in effect until the com-
 24 pletion or final termination of all proceedings for review of

1 such order under this title, unless, prior thereto, the district
2 court granting such relief sets it aside or modifies it.

3 (d) As a condition of approval of any State program
4 submitted pursuant to section 503 of this Act, the enforce-
5 ment provisions thereof shall, at a minimum, incorporate
6 sanctions no less stringent than those set forth in this section,
7 and shall contain the same or similar procedural require-
8 ments relating thereto.

9 DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL

10 MINING

11 SEC. 522. (a) (1) To be eligible to assume primary
12 regulatory authority pursuant to section 503, each State
13 shall establish a planning process enabling objective deci-
14 sions based upon competent and scientifically sound data and
15 information as to which, if any, land areas of a State are un-
16 suitable for all or certain types of surface coal mining opera-
17 tions pursuant to the standards set forth in paragraphs (2)
18 and (3) of this subsection but such designation shall not
19 prevent the mineral exploration pursuant to the Act of any
20 area so designated.

21 (2) Upon petition pursuant to subsection (c) of this
22 section, the State regulatory authority shall designate an
23 area as unsuitable for all or certain types of surface coal min-
24 ing operations if the State regulatory authority determines

1 that reclamation pursuant to the requirements of this Act
2 is not feasible.

3 (3) Upon petition pursuant to subsection (c) of this
4 section, a surface area may be designated unsuitable for cer-
5 tain types of surface coal mining operations if such opera-
6 tions will—

7 (A) be incompatible with existing land use plans
8 or programs; or

9 (B) affect fragile or historic lands in which such
10 operations could result in significant damage to impor-
11 tant historic, cultural, scientific, and esthetic values and
12 natural systems; or

13 (C) affect renewable resource lands in which such
14 operations could result in a substantial loss or reduction
15 of long-range productivity of water supply or of food
16 or fiber products, and such lands to include aquifers and
17 aquifer recharge areas; or

18 (D) affect natural hazard lands in which such opera-
19 tions could substantially endanger life and property,
20 such lands to include areas subject to frequent flooding
21 and areas of unstable geology.

22 (4) To comply with this section, a State must demon-
23 strate it has developed or is developing a process which
24 includes—

1 (A) a State agency responsible for surface coal
2 mining lands review;

3 (B) a data base and an inventory system which
4 will permit proper evaluation of the capacity of different
5 land areas of the State to support and permit reclama-
6 tion of surface coal mining operations;

7 (C) a method or methods for implementing land
8 use planning decisions concerning surface coal mining
9 operations; and

10 (D) proper notice, opportunities for public par-
11 ticipation, including a public hearing prior to making
12 any designation or redesignation, pursuant to this sec-
13 tion, and measures to protect the legal interests of
14 affected individuals in all aspects of the State planning
15 process.

16 (5) Determinations of the unsuitability of land for sur-
17 face coal mining, as provided for in this section, shall be
18 integrated as closely as possible with present and future
19 land use planning and regulation processes at the Federal,
20 State, and local levels.

21 (6) The requirements of this section shall not apply to
22 lands on which surface coal mining operations are being
23 conducted on the date of enactment of this Act or under a
24 permit issued pursuant to this Act, or where substantial

1 legal and financial commitments in such operations are in
2 existence prior to September 1, 1974.

3 (b) The Secretary shall conduct a review of the
4 Federal lands to determine, pursuant to the standards set
5 forth in paragraphs (2) and (3) of subsection (a) of this
6 section, whether there are areas on Federal lands which
7 are unsuitable for all or certain types of surface coal mining
8 operations: *Provided, however,* That the Secretary may per-
9 mit surface coal mining on Federal lands prior to the com-
10 pletion of this review. When the Secretary determines an
11 area on Federal lands to be unsuitable for all or certain types
12 of surface coal mining operations, he shall withdraw such
13 area or condition any mineral leasing or mineral entries in a
14 manner so as to limit surface coal mining operations on such
15 area. Where a Federal program has been implemented in a
16 State pursuant to section 504, the Secretary shall implement
17 a process for designation of areas unsuitable for surface coal
18 mining for non-Federal lands within such State and such
19 process shall incorporate the standards and procedures of
20 this section.

21 (c) Any person having an interest which is or may be
22 adversely affected shall have the right to petition the regula-
23 tory authority to have an area designated as unsuitable for
24 surface coal mining operations, or to have such a designation

1 terminated. Such a petition shall contain allegations of facts
 2 with supporting evidence which would tend to establish the
 3 allegations. Within ten months after receipt of the petition
 4 the regulatory authority shall hold a public hearing in the
 5 locality of the affected area, after appropriate notice and
 6 publication of the date, time, and location of such hearing.
 7 After a person having an interest which is or may be
 8 adversely affected has filed a petition and before the hearing,
 9 as required by this subsection, any person may intervene
 10 by filing allegations of facts with supporting evidence which
 11 would tend to establish the allegations. Within sixty days
 12 after such hearing, the regulatory authority shall issue and
 13 furnish to the petitioner and any other party to the hearing,
 14 a written decision regarding the petition, and the reasons
 15 therefor. In the event that all the petitioners stipulate agree-
 16 ment prior to the requested hearing, and withdraw their
 17 request, such hearing need not be held.

18 (d) Prior to designating any land areas as unsuitable
 19 for surface coal mining operations, the regulatory authority
 20 shall prepare a detailed statement on (i) the potential coal
 21 resources of the area, (ii) the demand for coal resources,
 22 and (iii) the impact of such designation on the environ-
 23 ment, the economy, and the supply of coal.

24 (e) Subject to valid existing rights no surface coal min-

1 ing operations except those which exist on the date of en-
 2 actment of this Act shall be permitted—

3 (1) on any lands within the boundaries of units of
 4 the National Park System, the National Wildlife Refuge
 5 Systems, the National System of Trails, the National
 6 Wilderness Preservation System, the Wild and Scenic
 7 Rivers System, including study rivers designated under
 8 section 5 (a) of the Wild and Scenic Rivers Act and
 9 National Recreation Areas designated by Act of Con-
 10 gress;

11 (2) on any Federal lands within the boundaries of
 12 any national forest except surface operations and im-
 13 pacts incident to an underground coal mine;

14 (3) which will adversely affect any publicly owned
 15 park or places included in the National Register of His-
 16 toric Sites unless approved jointly by the regulatory
 17 authority and the Federal, State, or local agency with
 18 jurisdiction over the park or the historic site;

19 (4) within one hundred feet of the outside right-
 20 of-way line of any public road, except where mine access
 21 roads or haulage roads join such right-of-way line and
 22 except that the regulatory authority may permit such
 23 roads to be relocated or the area affected to lie within
 24 one hundred feet of such road, if after public notice and
 25 opportunity for public hearing in the locality a written

1 finding is made that the interests of the public and the
2 landowners affected thereby will be protected; or

3 (5) within three hundred feet from any occupied
4 dwelling, unless waived by the owner thereof, nor within
5 three hundred feet of any public building, school, church,
6 community, or institutional building, public park, or
7 within one hundred feet of a cemetery.

8 FEDERAL LANDS

9 SEC. 523. (a) No later than six months after the date
10 of enactment of this Act, the Secretary shall promulgate
11 and implement a Federal lands program which shall be
12 applicable to all surface coal mining and reclamation oper-
13 ations taking place pursuant to any Federal law on any
14 Federal lands: *Provided*, That except as provided in sec-
15 tion 710 the provisions of this Act shall not be applicable
16 to Indian lands. The Federal lands program shall, at a mini-
17 mum, incorporate all of the requirements of this Act and
18 shall take into consideration the diverse physical, climato-
19 logical, and other unique characteristics of the Federal lands
20 in question. Where Federal lands in a State with an ap-
21 proved State program are involved, the Federal lands pro-
22 gram shall, at a minimum, include the requirements of the
23 approved State program.

24 (b) The requirements of this Act and the Federal lands
25 programs shall be incorporated by reference or otherwise in

1 any Federal mineral lease, permit, or contract issued by the
2 Secretary which may involve surface coal mining and recla-
3 mation operations. Incorporation of such requirements shall
4 not, however, limit in any way the authority of the Secre-
5 tary to subsequently issue new regulations, revise the Fed-
6 eral lands program to deal with changing conditions or
7 changed technology, and to require any surface mining and
8 reclamation operations to conform with the requirements
9 of this Act and the regulations issued pursuant to this Act.

10 (c) The Secretary may enter into agreements with a
11 State or with a number of States to provide for a joint
12 Federal-State program covering a permit or permits for sur-
13 face coal mining and reclamation operations on land areas
14 which contain lands within any State and Federal lands
15 which are interspersed or checkerboarded and which should,
16 for conservation and administrative purposes, be regulated
17 as a single management unit. To implement a joint Federal-
18 State program the Secretary may enter into agreements with
19 the States, may delegate authority to the States, or may
20 accept a delegation of authority from the States for the pur-
21 pose of avoiding duality of administration of a single permit
22 for surface coal mining and reclamation operations.

23 (d) Except as specifically provided in subsection (c)
24 this section shall not be construed as authorizing the Secre-
25 tary to delegate to the States any authority or jurisdiction to

1 regulate or administer surface coal mining and reclamation
2 operations or other activities taking place on the Federal
3 lands.

4 (e) The Secretary shall develop a program to assure
5 that with respect to the granting of permits, leases, or con-
6 tracts for coal owned by the United States, that no class of
7 purchasers of the mined coal shall be unreasonably denied
8 purchase thereof.

9 PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC

10 CORPORATIONS

11 SEC. 524. Any agency, unit, or instrumentality of Fed-
12 eral, State, or local government, including any publicly
13 owned utility or publicly owned corporation of Federal,
14 State, or local government, which proposes to engage in
15 surface coal mining operations which are subject to the
16 requirements of this Act shall comply with the provisions of
17 title V.

18 REVIEW BY SECRETARY

19 SEC. 525. (a) (1) A permittee issued a notice or order
20 by the Secretary pursuant to the provisions of subparagraphs
21 (a) (2) and (3) of section 521 of this title, or pursuant
22 to a Federal program or the Federal lands program or any
23 person having an interest which is or may be adversely af-
24 fected by such notice or order or by any modification, vaca-
25 tion, or termination of such notice or order, may apply to the

1 Secretary for review of the notice or order within thirty days
2 of receipt thereof or within thirty days of its modification,
3 vacation, or termination. Upon receipt of such application,
4 the Secretary shall cause such investigation to be made as he
5 deems appropriate. Such investigation shall provide an op-
6 portunity for a public hearing, at the request of the applicant
7 or the person having an interest which is or may be adversely
8 affected, to enable the applicant or such person to present
9 information relating to the issuance and continuance of such
10 notice or order or the modification, vacation, or termination
11 thereof. The filing of an application for review under this
12 subsection shall not operate as a stay of any order or notice.

13 (2) The permittee and other interested persons shall
14 be given written notice of the time and place of the hearing
15 at least five days prior thereto. Any such hearing shall be of
16 record and shall be subject to section 554 of title 5 of the
17 United States Code.

18 (b) Upon receiving the report of such investigation, the
19 Secretary shall make findings of fact, and shall issue a writ-
20 ten decision, incorporating therein an order vacating, affirm-
21 ing, modifying, or terminating the notice or order, or the
22 modification, vacation, or termination of such notice or order
23 complained of and incorporate his findings therein. Where
24 the application for review concerns an order for cessation of
25 surface coal mining and reclamation operations issued pur-

1 suant to the provisions of subparagraph (a) (2) or (3) of
 2 section 521 of this title, the Secretary shall issue the written
 3 decision within thirty days of the receipt of the application
 4 for review, unless temporary relief has been granted by the
 5 Secretary pursuant to subparagraph (c) of this section or
 6 by a United States district court pursuant to subparagraph
 7 (c) of section 526 of this title.

8 (c) Pending completion of the investigation required
 9 by this section, the applicant may file with the Secretary
 10 a written request that the Secretary grant temporary relief
 11 from any notice or order issued under section 521 of this
 12 title, a Federal program or the Federal lands program
 13 together with a detailed statement giving reasons for grant-
 14 ing such relief. The Secretary shall issue an order or decision
 15 granting or denying such relief expeditiously: *Provided,*
 16 That where the applicant requests relief from an order for
 17 cessation of coal mining and reclamation operations issued
 18 pursuant to subparagraph (a) (2) or (a) (3) of section 521
 19 of this title, the order or decision on such a request shall be
 20 issued within five days of its receipt. The Secretary may
 21 grant such relief, under such conditions as he may pre-
 22 scribe, if—

23 (1) a hearing has been held in the locality of the
 24 permit area on the request for temporary relief in which
 25 all parties were given an opportunity to be heard;

1 (2) the applicant shows that there is substantial
 2 likelihood that the findings of the Secretary will be favor-
 3 able to him; and

4 (3) such relief will not adversely affect the health
 5 or safety of the public or cause significant, imminent
 6 environmental harm to land, air, or water resources.

7 (d) Following the issuance of an order to show cause
 8 as to why a permit should not be suspended or revoked
 9 pursuant to section 521, the Secretary shall hold a public
 10 hearing after giving written notice of the time, place, and
 11 date thereof. Any such hearing shall be of record and shall
 12 be subject to section 554 of title 5 of the United States Code.
 13 Within sixty days following the public hearing, the Secre-
 14 tary shall issue and furnish to the permittee and all other
 15 parties to the hearing a written decision, and the reasons
 16 therefor, concerning suspension or revocation of the permit.
 17 If the Secretary revokes the permit, the permittee shall im-
 18 mediately cease surface coal mining operations on the permit
 19 area and shall complete reclamation within a period specified
 20 by the Secretary, or the Secretary shall declare as forfeited
 21 the performance bonds for the operation.

22 JUDICIAL REVIEW

23 SEC. 526. (a) (1) Any action of the Secretary to ap-
 24 prove or disapprove a State program or to prepare and
 25 promulgate a Federal program pursuant to this Act shall be

1 subject to judicial review only by the appropriate United
 2 States Court of Appeals upon the filing in such court within
 3 sixty days from the date of such action of a petition by any
 4 person who participated in the administrative proceedings
 5 related thereto and who is aggrieved by the action praying
 6 that the action be modified or set aside in whole or in part.
 7 A copy of the petition shall forthwith be sent by registered
 8 or certified mail to the Secretary, and the Attorney General
 9 and thereupon the Secretary shall certify, and the Attorney
 10 General shall file in such court the record upon which the
 11 action complained of was issued, as provided in section 2112
 12 of title 28, United States Code.

13 (2) All other orders or decisions issued by the Secretary
 14 pursuant to this Act shall be subject to judicial review only
 15 in the United States district court for the locality in which
 16 the surface coal mining operation is located. Such review
 17 shall be in accordance with the Federal Rules of Civil Pro-
 18 cedure. In the case of a proceeding to review an order or
 19 decision issued by the Secretary under the penalty section
 20 of this Act, the court shall have jurisdiction to enter an order
 21 requiring payment of any civil penalty assessment enforced
 22 by its judgment. The availability of review established in
 23 this subsection shall not be construed to limit the operation
 24 of the rights established in section 520.

25 (b) The court shall hear such petition or complaint sole-

1 ly on the record made before the Secretary. The findings of
 2 the Secretary if supported by substantial evidence on the
 3 record considered as a whole, shall be conclusive. The court
 4 may affirm, vacate, or modify any order or decision or may
 5 remand the proceedings to the Secretary for such further
 6 action as it may direct.

7 (c) In the case of a proceeding to review any order or
 8 decision issued by the Secretary under this Act, including
 9 an order or decision issued pursuant to subparagraph (c) of
 10 section 525 of this title pertaining to any order issued under
 11 subparagraph (a) (2) or (a) (3) of section 521 of this title
 12 for cessation of coal mining and reclamation operations, the
 13 court may, under such conditions as it may prescribe, grant
 14 such temporary relief as it deems appropriate pending final
 15 determination of the proceedings if—

16 (1) all parties to the proceedings have been notified
 17 and given an opportunity to be heard on a request for
 18 temporary relief;

19 (2) the person requesting such relief shows that
 20 there is a substantial likelihood that he will prevail on
 21 the merits of the final determination of the proceeding;
 22 and

23 (3) such relief will not adversely affect the public
 24 health or safety or cause significant imminent environ-
 25 mental harm to land, air, or water resources.

1 (d) The commencement of a proceeding under this sec-
2 tion shall not, unless specifically ordered by the court, oper-
3 ate as a stay of the action, order or decision of the Secretary.

4 (e) Action of the State regulatory authority pursuant
5 to an approved State program shall be subject to judicial re-
6 view by the court of competent jurisdiction in accordance
7 with State law, but the availability of such review shall not
8 be construed to limit the operation of the rights established in
9 section 520.

10 SPECIAL BITUMINOUS COAL MINES

11 SEC. 527. The regulatory authority is authorized to and
12 shall issue separate regulations for those special bituminous
13 coal surface mines located west of the one hundredth merid-
14 ian west longitude which meet the following criteria:

15 (a) the excavation of the specific mine pit takes
16 place on the same relatively limited site for an extended
17 period of time;

18 (b) the excavation of the specific mine pit follows
19 a coal seam having an inclination of fifteen degrees or
20 more from the horizontal, and continues in the same area
21 proceeding downward with lateral expansion of the pit
22 necessary to maintain stability or as necessary to ac-
23 commodate the orderly expansion of the total mining
24 operation;

25 (c) the excavation of the specific mine pit involves

1 the mining of more than one coal seam and mining has
2 been initiated on the deepest coal seam contemplated to
3 be mined in the current operation;

4 (d) the amount of material removed is large in
5 proportion to the surface area disturbed;

6 (e) there is no practicable alternative method of
7 mining the coal involved;

8 (f) there is no practicable method to reclaim the
9 land in the manner required by this Act; and

10 (g) the specific mine pit has been actually produc-
11 ing coal since January 1, 1972, in such manner as to
12 meet the criteria set forth in this section, and, because
13 of past duration of mining, is substantially committed to
14 a mode of operation which warrants exceptions to some
15 provisions of this title.

16 Such alternative regulations shall pertain only to the stand-
17 ards governing onsite handling of spoils, elimination of de-
18 pressions capable of collecting water, creation of impound-
19 ments, and regrading to the approximate original contour
20 and shall specify that remaining highwalls are stable. All
21 other performance standards in this title shall apply to such
22 mines.

23 SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT

24 SEC. 528. The provisions of this Act shall not apply
25 to any of the following activities:

1 (1) the extraction of coal by a landowner for his
2 own noncommercial use from land owned or leased by
3 him; and

4 (2) the extraction of coal for commercial purposes
5 where the surface mining operation affects two acres
6 or less.

7 ANTHRACITE COAL MINES

8 SEC. 529. (a) The Secretary is hereby authorized to
9 and shall issue separate regulations according to time sched-
10 ules established in the Act for anthracite coal surface mines,
11 if such mines are regulated by environmental protection
12 standards of the State in which they are located. Such alter-
13 native regulations shall adopt, in each instance, the environ-
14 mental protection provisions of the State regulatory program
15 in existence at the date of enactment of this Act in lieu
16 of sections 515 and 516. Provisions of sections 509 and
17 519 are applicable except for specified bond limits and
18 period of revegetation responsibility. All other provisions of
19 this Act apply and the regulation issued by the Secretary
20 of Interior for each State anthracite regulatory program
21 shall so reflect: *Provided, however,* That upon amendment
22 of a State's regulatory program for anthracite mining or
23 regulations thereunder in force in lieu of the above-cited
24 sections of this Act, the Secretary shall issue such additional
25 regulations as necessary to meet the purposes of this Act.

1 (b) The Secretary of Interior shall report to Congress
2 biennially, commencing on December 31, 1975, as to the
3 effectiveness of such State anthracite regulatory programs
4 operating in conjunction with this Act with respect to pro-
5 tecting the environment and such reports shall include those
6 recommendations the Secretary deems necessary for program
7 changes in order to better meet the environmental protection
8 objectives of this Act.

9 TITLE VI—DESIGNATION OF LANDS UNSUIT- 10 ABLE NONCOAL MINING

11 DESIGNATION PROCEDURES

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

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

1 (c) Any person having an interest which is or may be
 2 adversely affected shall have the right to petition the Secre-
 3 tary to seek exclusion of an area from mining operations
 4 pursuant to this section or the redesignation of an area or
 5 part thereof as suitable for such operations. Such petition
 6 shall contain allegations of fact with supporting evidence
 7 which would tend to substantiate the allegations. The peti-
 8 tioner shall be granted a hearing within a reasonable time
 9 and finding with reasons therefor upon the matter of their
 10 petition. In any instance where a Governor requests the
 11 Secretary to review an area, or where the Secretary finds the
 12 national interest so requires, the Secretary may temporarily
 13 withdraw the area to be reviewed from mineral entry or leas-
 14 ing pending such review: *Provided, however,* That such tem-
 15 porary withdrawal be ended as promptly as practicable and
 16 in no event shall exceed two years.

17 (d) In no event is a land area to be designated unsuit-
 18 able for mining operations under this section on which min-
 19 ing operations are being conducted prior to the holding of a
 20 hearing on such petition in accordance with subsection (c)
 21 hereof. Valid existing rights shall be preserved and not
 22 affected by such designation. Designation of an area as
 23 unsuitable for mining operations under this section shall not
 24 prevent subsequent mineral exploration of such area, except
 25 that such exploration shall require the prior written consent

1 of the holder of the surface estate, which consent shall be
 2 filed with the Secretary. The Secretary may promulgate,
 3 with respect to any designated area, regulations to minimize
 4 any adverse effects of such exploration.

5 (e) Prior to any designation pursuant to this section,
 6 the Secretary shall prepare a detailed statement on (i) the
 7 potential mineral resources of the area, (ii) the demand
 8 for such mineral resources, and (iii) the impact of such
 9 designation or the absence of such designation on the en-
 10 vironment, economy, and the supply of such mineral
 11 resources.

12 (f) When the Secretary designates an area of Federal
 13 lands as unsuitable for all or certain types of mining opera-
 14 tions for minerals and materials other than coal pursuant to
 15 this section he may withdraw such area from mineral entry
 16 or leasing, or condition such entry or leasing so as to limit
 17 such mining operations in accordance with his determination,
 18 if the Secretary also determines, based on his analysis pur-
 19 suant to subsection 601 (e), that the benefits resulting from
 20 such designation, would be greater than the benefits to the
 21 regional or national economy which could result from mineral
 22 development of such area.

23 (g) Any party with a valid legal interest who has ap-
 24 peared in the proceedings in connection with the Secretary's

1 determination pursuant to this section and who is aggrieved
 2 by the Secretary's decision (or by his failure to act within
 3 a reasonable time) shall have the right of appeal for review
 4 by the United States district court for the district in which
 5 the pertinent area is located.

6 TITLE VII—ADMINISTRATIVE AND MIS-
 7 CELLANEOUS PROVISIONS

8 DEFINITIONS

9 SEC. 701. For the purposes of this Act—

10 (1) "Secretary" means the Secretary of the Inte-
 11 rior, except where otherwise described;

12 (2) "State" means a State of the United States,
 13 the District of Columbia, the Commonwealth of Puerto
 14 Rico, the Virgin Islands, American Samoa, and Guam;

15 (3) "Office" means the Office of Surface Mining,
 16 Reclamation, and Enforcement established pursuant to
 17 title II;

18 (4) "commerce" means trade, traffic, commerce,
 19 transportation, transmission, or communication among
 20 the several States, or between a State and any other
 21 place outside thereof, or between points in the same
 22 State which directly or indirectly affect interstate
 23 commerce;

24 (5) "surface coal mining operations" means—

25 (A) activities conducted on the surface of

1 lands in connection with a surface coal mine or
 2 surface operations and surface impacts incident to
 3 an underground coal mine, the products of which
 4 enter commerce or the operations of which directly
 5 or indirectly affect interstate commerce. Such ac-
 6 tivities include excavation for the purpose of obtain-
 7 ing coal including such common methods as
 8 contour, strip, auger, mountaintop removal, box
 9 cut, open pit, and area mining, and in situ distilla-
 10 tion or retorting, leaching or other chemical or
 11 physical processing, and the cleaning, concentrat-
 12 ing, or other processing or preparation, loading of
 13 coal for interstate commerce at or near the mine
 14 site: *Provided, however,* That such activities do
 15 not include the extraction of coal incidental to the
 16 extraction of other minerals where coal does not
 17 exceed $16\frac{2}{3}$ per centum of the tonnage of minerals
 18 removed for purposes of commercial use or sale
 19 or coal explorations subject to section 512 of this
 20 Act; and

21 (B) the areas upon which such activities occur
 22 or where such activities disturb the natural land
 23 surface. Such areas shall also include any adjacent
 24 land the use of which is incidental to any such activi-
 25 ties, all lands affected by the construction of new

1 roads or the improvement or use of existing roads
 2 to gain access to the site of such activities and for
 3 haulage, and excavations, workings, impoundments,
 4 dams, ventilation shafts, entryways, refuse banks,
 5 dumps, stockpiles, overburden piles, spoil banks,
 6 culm banks, tailings, holes or depressions, repair
 7 areas, storage areas, processing areas, shipping areas
 8 and other areas upon which are sited structures,
 9 facilities, or other property or materials on the sur-
 10 face, resulting from or incident to such activities;

11 (6) "surface coal mining and reclamation opera-
 12 tions" means surface mining operations and all activities
 13 necessary and incident to the reclamation of such oper-
 14 ations after the date of enactment of this Act;

15 (7) "lands within any State" or "lands within such
 16 State" means all lands within a State other than Federal
 17 lands and Indian lands;

18 (8) "Federal lands" means any land, including
 19 mineral interests, owned by the United States without
 20 regard to how the United States acquired ownership of
 21 the land and without regard to the agency having respon-
 22 sibility for management thereof, except Indian lands;

23 (9) "Indian lands" means all lands, including
 24 mineral interests, within the exterior boundaries of any
 25 Federal Indian reservation, notwithstanding the issuance

1 of any patent, and including rights-of-way, and all lands
 2 including mineral interests held in trust for or supervised
 3 by any Indian tribe;

4 (10) "Indian tribe" means any Indian tribe, band,
 5 group, or community having a governing body rec-
 6 ognized by the Secretary;

7 (11) "State program" means a program established
 8 by a State pursuant to section 503 to regulate surface
 9 coal mining and reclamation operations, on lands within
 10 such State in accord with the requirements of this Act
 11 and regulations issued by the Secretary pursuant to this
 12 Act;

13 (12) "Federal program" means a program estab-
 14 lished by the Secretary pursuant to section 504 to reg-
 15 ulate surface coal mining and reclamation operations on
 16 lands within a State in accordance with the requirements
 17 of this Act;

18 (13) "Federal lands program" means a program
 19 established by the Secretary pursuant to section 523 to
 20 regulate surface coal mining and reclamation operations
 21 on Federal lands;

22 (14) "reclamation plan" means a plan submitted
 23 by an applicant for a permit under a State program or
 24 Federal program which sets forth a plan for reclamation

1 of the proposed surface coal mining operations pursuant
2 to section 508;

3 (15) "State regulatory authority" means the de-
4 partment or agency in each State which has primary
5 responsibility at the State level for administering this
6 Act;

7 (16) "regulatory authority" means the State reg-
8 ulatory authority where the State is administering this
9 Act under an approved State program or the Secretary
10 where the Secretary is administering this Act under a
11 Federal program;

12 (17) "person" means an individual, partnership,
13 association, society, joint stock company, firm, company,
14 corporation, or other business organization;

15 (18) "permit" means a permit to conduct surface
16 coal mining and reclamation operations issued by the
17 State regulatory authority pursuant to a State program
18 or by the Secretary pursuant to a Federal program;

19 (19) "permit applicant" or "applicant" means a
20 person applying for a permit;

21 (20) "permittee" means a person holding a permit;

22 (21) "fund" means the Abandoned Mine Reclama-
23 tion Fund established pursuant to section 401;

24 (22) "other minerals" means clay, stone, sand,
25 gravel, metalliferous and nonmetalliferous ores, and any

1 other solid material or substances of commercial value
2 excavated in solid form from natural deposits on or in
3 the earth, exclusive of coal and those minerals which
4 occur naturally in liquid or gaseous form;

5 (23) "approximate original contour" means that
6 surface configuration achieved by backfilling and grad-
7 ing of the mined area so that it closely resembles the
8 surface configuration of the land prior to mining and
9 blends into and complements the drainage pattern of the
10 surrounding terrain, with all highwalls, spoil piles, and
11 depressions eliminated except that water impoundments
12 may be permitted where the regulatory authority deter-
13 mines that they are in compliance with section 515 (b)
14 (8) of this Act;

15 (24) "operator" means any person, partnership, or
16 corporation engaged in coal mining who removes or in-
17 tends to remove more than two hundred and fifty tons of
18 coal from the earth by coal mining within twelve con-
19 secutive calendar months in any one location;

20 (25) "permit area" means the area of land indi-
21 cated on the approved map submitted by the operator
22 with his application, which area of land shall be cov-
23 ered by the operator's bond as required by section 509
24 of this Act and shall be readily identifiable by appro-
25 priate markers on the site;

1 (26) "unwarranted failure to comply" means the
2 failure of a permittee to prevent the occurrence of any
3 violation of his permit or any requirement of this Act
4 due to indifference, lack of diligence, or lack of
5 reasonable care, or the failure to abate any violation of
6 such permit or the Act due to indifference, lack of
7 diligence, or lack of reasonable care;

8 (27) "alluvial valley floors" means the uncon-
9 solidated stream laid deposits holding streams where
10 water availability is sufficient for subirrigation or flood
11 irrigation agricultural activities;

12 (28) "imminent danger to the health or safety of
13 the public" means the existence of any condition or
14 practice, or any violation of a permit or other require-
15 ment of this Act in a surface coal mining and reclamation
16 operation, which condition, practice, or violation could
17 reasonably be expected to cause substantial physical
18 harm to persons outside the permit area before such con-
19 dition, practice, or violation can be abated.

20 OTHER FEDERAL LAWS

21 SEC. 702. (a) Nothing in this Act shall be construed
22 as superseding, amending, modifying, or repealing the Min-
23 ing and Minerals Policy Act of 1970 (30 U.S.C. 21a),
24 the National Environmental Policy Act of 1969 (42 U.S.C.
25 4321-47), or any of the following Acts or with any rule

1 or regulation promulgated thereunder, including, but not
2 limited to—

3 (1) The Federal Metal and Nonmetallic Mine
4 Safety Act (30 U.S.C. 721-740).

5 (2) The Federal Coal Mine Health and Safety Act
6 of 1969 (83 Stat. 742).

7 (3) The Federal Water Pollution Control Act (79
8 Stat. 903), as amended (33 U.S.C. 1151-1175), the
9 State laws enacted pursuant thereto, or other Federal
10 laws relating to preservation of water quality.

11 (4) The Clean Air Act, as amended (42 U.S.C.
12 1857 et seq.).

13 (5) The Solid Waste Disposal Act (42 U.S.C.
14 3251-3259).

15 (6) The Refuse Act of 1899 (33 U.S.C. 407).

16 (7) The Fish and Wildlife Coordination Act of 1934
17 (16 U.S.C. 661-666c).

18 (b) Nothing in this Act shall affect in any way the
19 authority of the Secretary or the heads of other Federal
20 agencies under other provisions of law to include in any
21 lease, license, permit, contract, or other instrument such
22 conditions as may be appropriate to regulate surface coal
23 mining and reclamation operations on land under their juris-
24 diction.

25 (c) To the greatest extent practicable each Federal

1 agency shall cooperate with Secretary and the States in
2 carrying out the provisions of this Act.

3 (d) Approval of the State programs, pursuant to section
4 503 (b), promulgation of Federal programs, pursuant to sec-
5 tion 504, and implementation of the Federal lands programs,
6 pursuant to section 523 of this Act, shall constitute a major
7 action within the meaning of section 102 (2) (C) of the
8 National Environmental Policy Act of 1969 (42 U.S.C.
9 4332).

10 EMPLOYEE PROTECTION

11 SEC. 703. (a) No person shall discharge, or in any other
12 way discriminate against, or cause to be fired or discriminated
13 against, any employee or any authorized representative of
14 employees by reason of the fact that such employee or rep-
15 resentative has filed, instituted, or caused to be filed or
16 instituted any proceeding under this Act, or has testified or is
17 about to testify in any proceeding resulting from the admin-
18 istration or enforcement of the provisions of this Act.

19 (b) Any employee or a representative of employees who
20 believes that he has been fired or otherwise discriminated
21 against by any person in violation of subsection (a) of this
22 section may, within thirty days after such alleged violation
23 occurs, apply to the Secretary for a review of such firing or
24 alleged discrimination. A copy of the application shall be
25 sent to the person or operator who will be the respondent.

1 Upon receipt of such application, the Secretary shall cause
2 such investigation to be made as he deems appropriate. Such
3 investigation shall provide an opportunity for a public hear-
4 ing at the request of any party to such review to enable the
5 parties to present information relating to the alleged violation.
6 The parties shall be given written notice of the time and place
7 of the hearing at least five days prior to the hearing. Any
8 such hearing shall be of record and shall be subject to section
9 554 of title 5 of the United States Code. Upon receiving
10 the report of such investigation the Secretary shall make
11 findings of fact. If he finds that a violation did occur, he
12 shall issue a decision incorporating therein his findings
13 and an order requiring the party committing the violation to
14 take such affirmative action to abate the violation as the
15 Secretary deems appropriate, including, but not limited to,
16 the rehiring or reinstatement of the employee or representa-
17 tive of employees to his former position with compensation.
18 If he finds that there was no violation, he shall issue a finding.
19 Orders issued by the Secretary under this subsection shall
20 be subject to judicial review in the same manner as orders
21 and decisions of the Secretary are subject to judicial review
22 under this Act.

23 (c) Whenever an order is issued under this section to
24 abate any violation, at the request of the applicant a sum
25 equal to the aggregate amount of all costs and expenses (in-

1 cluding attorneys' fees) to have been reasonably incurred by
 2 the applicant for, or in connection with, the institution and
 3 prosecution of such proceedings, shall be assessed against the
 4 persons committing the violation.

5 (d) The Secretary shall conduct continuing evaluation
 6 of potential losses or shifts of employment which may result
 7 from the enforcement of this Act or any requirement of this
 8 Act including, where appropriate, investigating threatened
 9 mine closures or reductions in employment allegedly result-
 10 ing from such enforcement or requirement. Any employee
 11 who is discharged or laid off, threatened with discharge or
 12 layoff, or otherwise discriminated against by any person
 13 because of the alleged results of the enforcement or require-
 14 ment of this Act, or any representative of such employee,
 15 may request the Secretary to conduct a full investigation of
 16 the matter. The Secretary shall thereupon investigate the
 17 matter, and, at the request of any interested party, shall hold
 18 public hearings on not less than five days' notice, and shall
 19 at such hearings require the parties, including the employer
 20 involved, to present information relating to the actual or
 21 potential effect of such limitation or order on employment
 22 and on any alleged discharge, layoff, or other discrimination
 23 and the detailed reasons or justification therefor. Any such
 24 hearing shall be of record and shall be subject to section 554
 25 of title 5 of the United States Code. Upon receiving the re-
 26 port of such investigation, the Secretary shall promptly make

1 findings of fact as to the effect of such enforcement or require-
 2 ment on employment and on the alleged discharge, layoff, or
 3 discrimination and shall make such recommendations as he
 4 deems appropriate. Such report, findings, and recommenda-
 5 tions shall be available to the public. Nothing in this sub-
 6 section shall be construed to require or authorize the Secre-
 7 tary or a State to modify or withdraw any enforcement action
 8 or requirement.

9 PROTECTION OF GOVERNMENT EMPLOYEES

10 SEC. 704. Section 1114, title 18, United States Code,
 11 is hereby amended by adding the words "or of the De-
 12 partment of the Interior" after the words "Department of
 13 Labor" contained in that section.

14 GRANTS TO THE STATES

15 SEC. 705. (a) The Secretary is authorized to make an-
 16 nual grants to any State for the purpose of assisting such
 17 State in developing, administering, and enforcing State pro-
 18 grams under this Act. Such grants shall not exceed 80 per
 19 centum of the total costs incurred during the first year, 60
 20 per centum of total costs incurred during the second year, and
 21 40 per centum of the total costs incurred during the third
 22 and fourth years.

23 (b) The Secretary is authorized to cooperate with and
 24 provide assistance to any State for the purpose of assisting
 25 it in the development, administration, and enforcement of

1 its State programs. Such cooperation and assistance shall
2 include—

3 (1) technical assistance and training including pro-
4 vision of necessary curricular and instruction materials,
5 in the development, administration, and enforcement of
6 the State programs; and

7 (2) assistance in preparing and maintaining a con-
8 tinuing inventory of information on surface coal mining
9 and reclamation operations for each State for the pur-
10 poses of evaluating the effectiveness of the State pro-
11 grams. Such assistance shall include all Federal de-
12 partments and agencies making available data relevant
13 to surface coal mining and reclamation operations and
14 to the development, administration, and enforcement
15 of State programs concerning such operations.

16 ANNUAL REPORT

17 SEC. 706. The Secretary shall submit annually to the
18 President and the Congress a report concerning activities
19 conducted by him, the Federal Government, and the States
20 pursuant to this Act. Among other matters, the Secretary
21 shall include in such report recommendations for additional
22 administrative or legislative action as he deems necessary
23 and desirable to accomplish the purposes of this Act.

24 SEVERABILITY

25 SEC. 707. If any provision of this Act or the applicabil-

1 ity thereof to any person or circumstance is held invalid, the
2 remainder of this Act and the application of such provision
3 to other persons or circumstances shall not be affected there-
4 by.

5 ALASKAN SURFACE COAL MINE STUDY

6 SEC. 708. (a) The Secretary is directed to contract with
7 the National Academy of Sciences-National Academy of
8 Engineering for an in-depth study of surface coal mining con-
9 ditions in the State of Alaska in order to determine which,
10 if any, of the provisions of this Act should be modified with
11 respect to surface coal mining operations in Alaska.

12 (b) The Secretary shall report on the findings of the
13 study to the President and Congress no later than two years
14 after the date of enactment of this Act.

15 (c) The Secretary shall include in his report a draft of
16 legislation to implement any changes recommended to this
17 Act.

18 (d) Until one year after the Secretary has made this
19 report to the President and Congress, or three years after the
20 date of enactment of this Act, whichever comes first, the Sec-
21 retary is authorized to suspend the applicability of any pro-
22 vision of this Act, or any regulation issued pursuant thereto,
23 to any surface coal mining operation in Alaska from which
24 coal has been mined during the year preceding enactment of
25 this Act if he determines that it is necessary to insure the

1 continued operation of such surface coal mining operation.
 2 The Secretary may exercise his suspension authority only
 3 after he has (1) published a notice of proposed suspension
 4 in the Federal Register and in a newspaper of general cir-
 5 culation in the area of Alaska in which the affected surface
 6 coal mining operation is located, and (2) held a public hear-
 7 ing on the proposed suspension in Alaska.

8 (e) There is hereby authorized to be appropriated for
 9 the purpose of this section 250,000.

10 STUDY OF RECLAMATION STANDARDS FOR SURFACE
 11 MINING OF OTHER MINERALS

12 SEC. 709. (a) The Chairman of the Council on Envi-
 13 ronmental Quality is directed to contract with the National
 14 Academy of Sciences-National Academy of Engineering,
 15 other Government agencies or private groups as appropriate,
 16 for an in-depth study of current and developing technology
 17 for surface and open pit mining and reclamation for minerals
 18 other than coal designed to assist in the establishment of
 19 effective and reasonable regulation of surface and open pit
 20 mining and reclamation for minerals other than coal. The
 21 study shall—

22 (1) assess the degree to which the requirements of
 23 this Act can be met by such technology and the costs
 24 involved;

1 (2) identify areas where the requirements of this
 2 Act cannot be met by current and developing tech-
 3 nology;

4 (3) in those instances describe requirements most
 5 comparable to those of this Act which could be met, the
 6 costs involved, and the differences in reclamation re-
 7 sults between these requirements and those of this Act;
 8 and

9 (4) discuss alternative regulatory mechanisms de-
 10 signed to insure the achievement of the most beneficial
 11 postmining land use for areas affected by surface and
 12 open pit mining.

13 (b) The study together with specific legislative recom-
 14 mendations shall be submitted to the President and the
 15 Congress no later than eighteen months after the date
 16 of enactment of this Act: *Provided*, That, with respect to
 17 surface or open pit mining for sand and gravel the study
 18 shall be submitted no later than twelve months after the
 19 date of enactment of this Act: *Provided further*, That with
 20 respect to mining for oil shale and tar sands that a prelimi-
 21 nary report shall be submitted no later than twelve months
 22 after the date of enactment of this Act.

23 (c) There are hereby authorized to be appropriated
 24 for the purpose of this section \$500,000.

INDIAN LANDS

1
2 SEC. 710. (a) The Secretary is directed to study the
3 question of the regulation of surface mining on Indian lands
4 which will achieve the purpose of this Act and recognize
5 the special jurisdictional status of these lands. In carrying out
6 this study the Secretary shall consult with Indian tribes.
7 The study report shall include proposed legislation designed
8 to allow Indian tribes to elect to assume full regulatory
9 authority over the administration and enforcement of regula-
10 tion of surface mining of coal on Indian lands.

11 (b) The study report required by subsection (a) to-
12 gether with drafts of proposed legislation and the view of
13 each Indian tribe which would be affected shall be submitted
14 to the Congress as soon as possible but not later than
15 January 1, 1976.

16 (c) On and after one hundred and thirty-five days from
17 the enactment of this Act, all surface coal mining operations
18 on Indian lands shall comply with requirements at least as
19 stringent as those imposed by subsections 515 (b) (2), 515
20 (b) (3), 515 (b) (5), 515 (b) (10), 515 (b) (13), 515 (b)
21 (19), and 515 (d) of this Act and the Secretary shall incor-
22 porate the requirements of such provisions in all existing and
23 new leases issued for coal on Indian lands.

24 (d) On and after thirty months from the enactment of
25 this Act, all surface coal mining operations on Indian lands

1 shall comply with requirements at least as stringent as those
2 imposed by sections 507, 508, 509, 510, 515, 516, 517, and
3 519 of this Act and the Secretary shall incorporate the re-
4 quirements of such provisions in all existing and new leases
5 issued for coal on Indian lands.

6 (e) With respect to leases issued after the date of enact-
7 ment of this Act, the Secretary shall include and enforce
8 terms and conditions in addition to those required by sub-
9 sections (c) and (d) as may be requested by the Indian
10 tribe in such leases.

11 (f) Any change required by subsection (c) or (d) of
12 this section in the terms and conditions of any coal lease on
13 Indian lands existing on the date of enactment of this Act,
14 shall require the approval of the Secretary.

15 (g) The Secretary shall provide for adequate participa-
16 tion by the various Indian tribes affected in the study author-
17 ized in this section and not more than \$700,000 of the funds
18 authorized in section 715 (a) shall be reserved for this
19 purpose.

EXPERIMENTAL PRACTICES

20
21 SEC. 711. In order to encourage advances in mining and
22 reclamation practices, the regulatory authority may authorize
23 departures in individual cases on an experimental basis from
24 the environmental protection performance standards promul-
25 gated under sections 515 and 516 of this Act. Such depart-

1 ures may be authorized if (i) the experimental practices are
 2 potentially more or at least as environmentally protective,
 3 during and after mining operations, as those required by
 4 promulgated standards; (ii) the mining operation is no
 5 larger than necessary to determine the effectiveness and
 6 economic feasibility of the experimental practices; and (iii)
 7 the experimental practices do not reduce the protection
 8 afforded public health and safety below that provided by
 9 promulgated standards.

10 AUTHORIZATION OF APPROPRIATIONS

11 SEC. 712. There is authorized to be appropriated to the
 12 Secretary for the purposes of this Act the following sums;
 13 and all such funds appropriated shall remain available until
 14 expended:

15 (a) For the implementation and funding of sections
 16 502, 552, 405 (b) (3), and 710 contract authority is granted
 17 to the Secretary of the Interior for the sum of \$10,000,000
 18 to become available immediately upon enactment of this Act
 19 and \$10,000,000 for each of the two succeeding fiscal years.

20 (b) For administrative and other purposes of this Act,
 21 except as otherwise provided for in this Act, authorization
 22 is provided for the sum of \$10,000,000 for the fiscal year
 23 ending June 30, 1975, for each of the two succeeding fiscal
 24 years the sums of \$20,000,000 and \$30,000,000 for each
 25 fiscal year thereafter.

1 RESEARCH AND DEMONSTRATION PROJECTS OF ALTERNA- 2 TIVE COAL MINING TECHNOLOGIES

3 SEC. 713. (a) The Secretary is authorized to conduct
 4 and promote the coordination and acceleration of, research,
 5 studies, surveys, experiments, demonstration projects, and
 6 training relating to—

7 (1) the development and application of coal min-
 8 ing technologies which provide alternatives to surface
 9 disturbance and which maximize the recovery of avail-
 10 able coal resources, including the improvement of pres-
 11 ent underground mining methods, methods for the
 12 return of underground mining wastes to the mine void,
 13 methods for the underground mining of thick coal
 14 seams and very deep seams; and

15 (2) safety and health in the application of such
 16 technologies methods and means.

17 (b) In conducting the activities authorized by this sec-
 18 tion, the Secretary may enter into contracts with and make
 19 grants to qualified institutions, agencies, organizations, and
 20 persons.

21 (c) There are authorized to be appropriated to the
 22 Secretary, to carry out the purposes of this section, \$35,-
 23 000,000 for each fiscal year beginning with the fiscal year
 24 1976, and for each year thereafter for the next four years.

25 (d) At least sixty days before any funds are obligated

1 for any research studies, surveys, experiments or demonstra-
 2 tion projects to be conducted or financed under this Act in
 3 any fiscal year, the Secretary in consultation with the Admin-
 4 istrator of the Energy Research and Development Adminis-
 5 tration and the heads of other Federal agencies having the
 6 authority to conduct or finance such projects, shall deter-
 7 mine and publish such determinations in the Federal Reg-
 8 ister that such projects are not being conducted or financed
 9 by any other Federal agency. On March 1 of each calendar
 10 year, the Secretary shall report to the Congress on the re-
 11 search studies, surveys, experiments or demonstration proj-
 12 ects, conducted or financed under this Act, including, but not
 13 limited to, a statement of the nature and purpose of each
 14 project, the Federal cost thereof, the identity and affilia-
 15 tion of the persons engaged in such projects, the expected
 16 completion date of the projects and the relationship of the
 17 projects to other such projects of a similar nature.

18 (e) Subject to the patent provisions of section 306 (d)
 19 of this Act, all information and data resulting from any
 20 research studies, surveys, experiments, or demonstration
 21 projects conducted or financed under this Act shall be
 22 promptly made available to the public.

23 SURFACE OWNER PROTECTION

24 SEC. 714. (a) The provisions and procedures specified
 25 in this section shall apply where coal owned by the United

1 States under land the surface rights to which are owned by a
 2 surface owner as defined in this section is to be mined by
 3 methods other than underground mining techniques. In order
 4 to minimize disturbance to surface owners from surface coal
 5 mining of Federal coal deposits, the Secretary shall, in his
 6 discretion but, to the maximum extent practicable, refrain
 7 from leasing such coal deposits for development by methods
 8 other than underground mining techniques.

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

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

19 (d) The Secretary shall not enter into any lease of such
 20 coal deposits until the surface owner has given written con-
 21 sent and the Secretary has obtained such consent, to enter
 22 and commence surface mining operations, and the applicant
 23 has agreed to pay in addition to the rental and royalty and
 24 other obligations due the United States the money value of

1 the surface owner's interest as determined according to the
2 provisions of subsection (e).

3 (e) The value of the surface owner's interest shall
4 be fixed by the Secretary based on appraisals made by
5 three appraisers. One such appraiser shall be appointed by
6 the Secretary, one appointed by the surface owner con-
7 cerned, and one appointed jointly by the appraisers named
8 by the Secretary and such surface owner. In computing the
9 value of the surface owner's interest, the appraisers shall
10 first fix and determine the fair market value of the surface
11 estate and they shall then determine and add the value of
12 such of the following losses and costs to the extent that
13 such losses and costs arise from the surface coal mining
14 operations:

15 (1) loss of income to the surface owner during the
16 mining and reclamation process;

17 (2) cost to the surface owner for relocation or dis-
18 location during the mining and reclamation process;

19 (3) cost to the surface owner for the loss of live-
20 stock, crops, water or other improvements;

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

24 (5) such additional reasonable amount of compen-
25 sation as the Secretary may determine is equitable in

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

7 (f) All bills submitted to the Secretary for any such
8 lease shall, in addition to any rental or royalty and other
9 obligations, be accompanied by the deposit of an amount
10 equal to the value of the surface owner's interest computed
11 under subsection (e). The Secretary shall pay such amount
12 to the surface owner either upon the execution of such lease
13 or upon the commencement of mining, or shall require post-
14 ing of bond to assure installment payments over a period of
15 years acceptable to the surface owner, at the option of the
16 surface owner. At the time of initial payment, the surface
17 owner may request a review of the initial determination of
18 the amount of the surface owner's interest for the purpose
19 of adjusting such amount to reflect any increase in the Con-
20 sumer Price Index since the initial determination. The lessee
21 shall pay such increased amount to the Secretary to be paid
22 over to the surface owner. Upon the release of the perform-
23 ance bonds or deposits under section 519, or at an earlier
24 time as may be determined by the Secretary, all rights to

1 enter into and use the surface of the land subject to such
2 lease shall revert to the surface owner.

3 (g) For the purpose of this section the term "surface
4 owner" means the natural person or persons (or corpora-
5 tion, the majority stock of which is held by a person or
6 persons who meet the other requirements of this section)
7 who—

8 (1) hold legal or equitable title to the land surface;

9 (2) have their principal place of residence on the
10 land; or personally conduct farming or ranching oper-
11 ations upon a farm or ranch unit to be affected by sur-
12 face coal mining operations; or receive directly a sig-
13 nificant portion of their income, if any, from such farm-
14 ing or ranching operations; and

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

18 In computing the three-year period the Secretary may in-
19 clude periods during which title was owned by a relative
20 of such person by blood or marriage during which period
21 such relative would have met the requirements of this sub-
22 section.

23 (h) Where surface lands over coal subject to this sec-
24 tion are owned by any person who meets the requirements of
25 paragraphs (1) and (2) of this subsection (g) but who does

1 not meet the requirements of paragraph (3) of subsection
2 (g), the Secretary shall not place such coal deposit in a
3 leasing tract unless such person has owned such surface lands
4 for a period of three years. After the expiration of such
5 three-year period such coal deposit may be leased by the
6 Secretary: *Provided*, That if such person qualifies as a sur-
7 face owner as defined by subsection (g) his consent has
8 been obtained pursuant to the procedures set forth in this
9 section.

10 (i) Nothing in this section shall be construed as increas-
11 ing or diminishing any property rights held by the United
12 States or by any other land owner.

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

18 (k) At the end of each two-year period after the date
19 of enactment of this Act, the Secretary shall submit to the
20 Congress a report on the implementation of the Federal
21 coal leasing policy established by this section. The report
22 shall include a list of the surface owners who have (1) given
23 their consent, (2) received payments pursuant to this
24 section, (3) refused to give consent, and (4) the acreage
25 of land involved in each category. The report shall also

1 indicate the Secretary's views on the impact of the leasing
2 policy on the availability of Federal coal to meet national
3 energy needs and on receipt of fair market value for Federal
4 coal.

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

6 (m) Any person who gives, offers, or promises any-
7 thing of value to any surface owner or offers or promises
8 any surface owner to give anything of value to any other
9 person or entity in order to induce such surface owner to
10 give the Secretary his written consent pursuant to this sec-
11 tion, and any surface owner who accepts, receives, or offers
12 or agrees to receive anything of value for himself or any
13 other person or entity, in return for giving his written con-
14 sent pursuant to this section, shall be subject to a civil pen-
15 alty of one and a half times the monetary equivalent of the
16 thing of value. Such penalty shall be assessed by the Sec-
17 retary and collected in accordance with the procedures set
18 out in subsections 518 (b), 518 (c), 518 (d), and 518 (e)
19 of this Act.

20 (n) Any Federal coal lease issued subject to the provi-
21 sions of this section shall be automatically terminated if the
22 lessee, before or after issuance of the lease, gives, offers or
23 promises anything of value to the surface owner or offers
24 or promises any surface owner to give anything of value to
25 any other person or entity in order to (1) induce such sur-

1 face owner to give the Secretary his written consent pursuant
2 to this section, or (2) compensate such surface owner for
3 giving such consent. All bonuses, royalties, rents, and other
4 payments made by the lessee shall be retained by the United
5 States.

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

15 FEDERAL LESSEE PROTECTION

16 SEC. 715. In those instances where the coal proposed to
17 be mined by surface coal mining operations is owned by the
18 Federal Government and the surface is subject to a lease or a
19 permit issued by the Federal Government, the application
20 for a permit shall include either:

21 (1) the written consent of the permittee or lessee
22 of the surface lands involved to enter and commence sur-
23 face coal mining operations on such land, or in lieu
24 thereof;

25 (2) evidence of the execution of a bond or under-

1 taking to the United States or the State, whichever is
 2 applicable, for the use and benefit of the permittee or
 3 lessee of the surface lands involved to secure payment
 4 of any damages to the surface estate which the opera-
 5 tions will cause to the crops, or to the tangible improve-
 6 ments of the permittee or lessee of the surface lands as
 7 may be determined by the parties involved, or as de-
 8 termined and fixed in an action brought against the op-
 9 erator or upon the bond in a court of competent juris-
 10 diction. This bond is in addition to the performance
 11 bond required for reclamation under this Act.

12 ALASKA COAL

13 SEC. 716. Nothing in this Act shall be construed as
 14 increasing or diminishing the rights of any owner of coal
 15 in Alaska to conduct or authorize surface coal mining op-
 16 erations for coal which has been or is hereafter conveyed out-
 17 of Federal ownership to the State of Alaska or pursuant to the
 18 Alaska Native Claims Settlement Act: *Provided*, That such
 19 surface coal mining operations meet the requirements of the
 20 Act.

21 WATER RIGHTS

22 SEC. 717. Nothing in this Act shall be construed as
 23 affecting in any way the right of any person to enforce or
 24 protect, under applicable law, his interest in water resources
 25 affected by a surface coal mining operation.

94TH CONGRESS
1ST SESSION

H. R. 9725

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.

By Mr. MELCHER, Mr. RONCALIO, Mr. STEELMAN, Mr. PHILLIP BURTON, Mr. VIGORITO, Mr. WEAVER, Mr. MILLER of California, and Mr. CARR

SEPTEMBER 19, 1975

Referred to the Committee on Interior and Insular
Affairs