

The original documents are located in Box 17, folder “12/30/74 S425 Surface Mining Control and Reclamation Act of 1974 (vetoed) (2)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

SURFACE MINING CONTROL AND RECLAMATION
ACT OF 1974

REPORT

OF THE

COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS

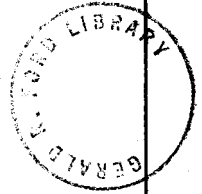
HOUSE OF REPRESENTATIVES

together with

ADDITIONAL, DISSENTING, SEPARATE, AND
SUPPLEMENTAL VIEWS

TO ACCOMPANY

H.R. 11500



MAY 30, 1974.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

This lengthy publication was not digitized. Please contact the Gerald R. Ford Presidential Library or the government documents department of a local library to obtain a copy of this item.

Date: January 23, 1975

Time: 1:00 p.m.

FOR ACTION: Mike Duval
Phil Areeda
Max Friedersdorf
Bill Seidman

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: January 23, 1975

Time: 4:30 p.m.

SUBJECT:

Ash memorandum - Strip Mining Legislation

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



SUBJECT: Strip Mining Legislation

*ans. by Dr. Koster
by phone to
Mike Seidman
1/23/75*

With respect to Issue #2, it would seem to me preferable to express a willingness to negotiate on the issues at the outset instead of immediately and unilaterally sending up a new administration bill.

With respect to Issue #3, I think the administration should press strongly for modification of the provisions concerning special unemployment benefits arrangements, with the remaining issues subject to bargaining and not regarded to non-negotiable.

If you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren H. Hendriks
for the President

Please return to: Mr. [unclear]

DECISION

THE WHITE HOUSE

WASHINGTON

JAN 22 1975

gws

Morton called in to office (Schultz)

Dave

MEMORANDUM FOR THE PRESIDENT

FROM: Roy L. Ash

SUBJECT: Strip Mine Legislation

Following your veto of S. 425, the Surface Mining Control and Reclamation Act of 1974, an interagency task force began preparation of draft strip mine legislation to be sent to Congress as part of your 1975 legislative program. There is now general agreement that the draft legislation should (1) correct the critical problems that led to veto of S. 425, (2) make other changes to eliminate important but not critical problems, and (3) follow the structure of S. 425 retaining as much of its language as possible after the two classes of changes cited above.

There is also general agreement that the committees handling the reintroduced S. 425 should be informed of what the critical substantive changes are - thus indicating generally where the line is likely to be drawn on the veto decision. This information can be passed in several ways: (1) in the Speaker letter that transmits your draft legislation, (2) verbally by a spokesman authorized to negotiate, (3) separate letter from Secretary Morton, or (4) in Congressional testimony.

Issues: There are several points in disagreement:

1. Whether certain specific substantive changes advocated by some agency heads should be identified as critical (implies mandatory to avoid veto) or noncritical (implies they will not be raised in negotiation nor even corrected in an Administration bill).
2. Whether you should send up an Administration bill now or first attempt to negotiate for critical substantive changes and send up an Administration bill based on outcome of the negotiations.
3. If you decide to negotiate first, how many and what substantive changes that are not critical to veto should be raised in negotiation.



Issue 1 is the key to issues 2 and 3. Because of the strong differences of opinion that exist now, as at the time of veto, among concerned agency heads and advisers, we have been unable to arrive at consensus on strategy or on limits of negotiation.

Tab A contains decision papers on Issue #1, the substantive items in disagreement, with the recommendations of agency heads and advisers indicated thereon.

Tab B lists changes to S. 425 that are agreed to be critical - potentially the only veto related items under Issue #2.

Tab C lists changes to S. 425 that all agree are important though not critical, and that would be dealt with in an Administration bill.

Tab D provides summary comparison between the Administration alternative and S. 425 against decision factors, e.g. coal production.

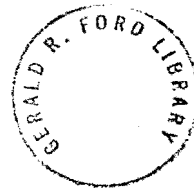
The remainder of this memorandum addresses issues #2 and #3.

Issue #2 - Sending an Administration bill now vs negotiation first and an eventual bill based on the negotiated position

Proponents of negotiating first believe that the Congress will not pay any attention to an Administration bill, and will in fact move almost immediately to reenact S. 425. Such a course would limit us to attempts to make changes on the floor, thus reducing the possibility of getting any changes in the bill, including critical ones.

Such a course would allow the Administration to accept (by not bringing them into negotiation) a number of provisions we could not advocate (in an Administration bill) and thus narrows Executive-Congressional differences (to only the Tab B items). Proponents of this position believe sending an Administration bill which includes all desirable amendments and not just critical amendments to S. 425 would be a liability, and result in Congress ignoring the Administration's critical changes.

Proponents of sending an Administration bill now believe it is the best way to keep Presidential leadership on the issue, this is the best way of publicly declaring the Administration position on the substance of the bill, and that it provides the strongest position for any future negotiation with the Congress as the bill moves forward. Sending a bill does not prevent narrowing down the number of issues - and a "critical issue" list can be included in the Speaker letter or separately identified when necessary. Sending a bill now is most consistent with your procedure on other energy items cited in your State of the Union.



Issue #3 - Whether noncritical substantive changes will be included in the negotiation list or (depending on the outcome of Issue #2) included in the Administration bill

Spokesmen for the Committees on both sides have told Interior and FEA representatives that they will open the bill for discussion of very few issues if any at all. This leads to belief that either an Administration bill or a negotiating position should be limited to only those changes critical to avoid veto. The letter to you of January 16 from Messrs. Morton, Train, and Zarb, recommended that only five changes from the vetoed S. 425 be cited as those necessary to make the bill acceptable. Their argument is based on the premise that early enactment of a surface mining bill with these five changes would accomplish the twin goals of substantially lowering coal production losses otherwise anticipated and providing the coal industry with the degree of certainty necessary for long range planning and capital investment thereby increasing coal production.

Arguments for pressing for more changes are that (1) some negotiating flexibility must be preserved to avoid Congressional charges that we are sending ultimatums rather than offering compromise, (2) restricting the list to a small number passes up a chance to negotiate on important issues that lie on the borderline of criticality, including those that would protect against further production losses, (3) there is disagreement on what items are sufficiently critical to warrant veto, and (4) the sum of many noncritical items may in fact be more serious than one or two specific critical issues (a problem common to many complex bills).

Because of the complexity of the issues involved you may wish to meet with all concerned agency heads before making final decisions. However, their recommendations are set forth below.

Recommendations:

Issue #1: That you review the specific substantive decision items on Tab A, indicating your decisions. Recommendations cited on each item.

Issue #2:

Decision

Agency Heads
Recommend

a. Administration bill now with all changes in Attachments A, B, and C but cite critical issues in Speaker letter.

Simon Marsh
Dent Friedersdorf
Ash

b. Negotiate first only. Send bill later reflecting outcome of negotiations.

Morton Zarb
Train Peterson
Butz



Issue #3: (Regardless of whether approach is Administration bill or negotiation)

Decision

Agency Heads
Recommend

a. Continue to press for other desirable changes.

Simon Ash
Dent

b. Restrict negotiations to "bottom line" items (veto items) plus a few negotiable points.

Morton Zarb
Train Peterson
Butz



ATTACHMENTS

- A - Decision papers on changes that are in disagreement either on the substance of the desired change or on whether the change should be considered critical.
- B - Description of changes unanimously considered critical (veto items).
- C - Substantive changes from S. 425 (generally agreed as non-critical) and other fixes that would be made in an Administration bill.
- D - A comparison of the effects of S. 425 and S. 425 as it would be modified by both critical and non-critical changes with respect to specific criteria cited during and after your veto decision.



ISSUES IN TAB A

1. Orphan lands reclamation program
2. Unemployment
3. Federal role in interim program
4. Implementation timing
5. Variances
6. Alluvial valley floors
7. Hydrologic data
8. Impoundments
9. Prohibition of surface mining on national forests



ISSUE #1 - ORPHAN LAND RECLAMATION PROGRAM
(Cost of coal, Federal budget item)

Issue - Whether to have Reclamation Program for previously strip mined land?

S.425 Provides:

- . Trust fund to finance reclamation by taxing all coal mined (variable fee between surface (35¢/ton) and underground (25¢/ton)).
- . Cost-sharing program administered by Agriculture (up to 80% Federal) for reclaiming privately owned lands.
- . Federal acquisition and reclamation of lands by the Secretary of the Interior.
- . Grants to States for acquisition of lands to be donated to Federal Government for Federal reclamation.
- . Funds authorized to develop reclaimed land by building public facilities thereon at Federal expense--roads, hospitals, schools, utilities, etc. In expanding coal mining areas any public facilities can be federally funded.

Administration change:

Have no program (If it is decided to support some programs, the sub-issues that follow this page deal with the specifics.)

Reasons for having no program: Simon and Ash believe:

- . Over next 10 years S.425 would direct \$2.0 billion of national resources into orphan land reclamation (program continues indefinitely.)
- . Inconsistent with moratorium on new spending programs.
- . The cost of reclaiming most lands will exceed the value of the reclaimed land -- in many cases cost will exceed benefits.
- . Hard to avoid windfalls to owners of mined-over land.

Reasons for having program: Morton, Zarb, Butz, Train, Peterson, and Dent

- . Failure to support program will indicate to many we do not truly want sound legislation.
- . Conservationists believe that addition of unquantifiable ecological and aesthetic benefits make reclamation a justifiable national investment.
- . Restoration of orphaned mined lands will lessen the public pressures for an absolute prohibition of strip mining.

Decision

Have a program

Have no program

Consider Administration Reclamation Program change a critical problem

Do not consider the Administration Reclamation Program change a critical problem.

Sub-Issues

ORPHAN LANDS RECLAMATION PROGRAM

Background: If decision is to recommend a reclamation program, its major characteristics must be defined. If a decision is made to oppose any Federal involvement in a mined area reclamation program as a critical change, it may still be necessary to define for negotiation purposes the acceptable limits on any program Congress may include in legislation. Resolution of the sub-issues that follow are necessary to define such a program. Agency heads and advisers differ on 3 issues, and are unanimous in one recommendation, as follows:

- Delete S. 425 provision that would allow the Secretary of the Interior to fund directly, or by grants to States, construction of public facilities such as roads, utilities, schools, hospitals on reclaimed mined lands or in areas where coal mine activity is expanding and adequate facilities do not exist. - All affected agency heads agree.

Sub-issues where recommendations differ are:

- A. Sub-issue -- Who should be responsible for acquiring and reclaiming orphan lands?

Alternatives

1. Federal Government and States both acquiring and reclaiming orphan lands with 50/50 cost sharing provided to States (Interior)

Reasons for: Morton, Zarb, Butz, Train, and Peterson believe:

1. Congress and environmentalists appear committed to strong Federal role.
2. Would provide consistent approach among States across the country.
3. Would provide Secretary flexibility in administering an effective program.

2. State Government acquiring and reclaiming orphan lands with 50/50 cost sharing provided to States

Reasons for: Dent, Simon, and Ash believe:

1. Decision on what lands need to be reclaimed can best be made at State or local level.
2. By law States are responsible for non point source pollution.
3. Several States already have ongoing programs and Federal Government should not replace them.
4. Only minor increase in Federal employment.
5. Bureaucratic problems inherent in such a program would be passed on to States.



6. Would not end up as massive Federal land acquisition program.

Decision: Alternative 1 Alternative 2

NOTE: With respect to sub-issues A and B, EPA believes the Federal cost share should be up to 80%. Roy Ash believes that non-Federal interests should put up at least 50% of the money to insure more responsible program decision making at the State level.

B. Sub-issue -- Rural lands program (50/50 cost sharing)

Whether to provide cost sharing for private landowners to reclaim orphan lands (emphasis of program is to correct problems which are causing offsite damage; no land acquisition would be provided).

Reasons for: Butz, Morton, Zarb, Train, and Peterson believe:

1. These lands are causing offsite damages and to date landowners have not corrected problems.
2. Congress may be convinced such a program is needed (was included in S. 425).
3. May cost Federal Government less than acquisition program.

Reasons against: Simon, Dent, and Ash believe:

1. There appears to be no way to prevent landowners from receiving windfall profits when their lands are reclaimed.
2. By law States are responsible for dealing with non point source pollution. This would change existing Federal/State responsibilities.
3. Requires substantial increase in Federal involvement and in Federal employment.
4. Inconsistent with FY 1976 budget decision to terminate cost sharing for other Agriculture conservation programs.

Decision: Include a rural lands program. Have no rural lands program.

C. Sub-issue -- How should program be funded

Alternatives

1. Through appropriations from General Fund

Pro: Dent, Train, and Ash

1. Would be somewhat more controllable.
2. Would be more flexible and provide capability to fund highest priority programs.



2. Through appropriation from a fund financed by a new Federal tax on mined coal

Pro: Simon, Zarb, Peterson, Morton, and Butz

1. Approach set forth in S. 425.
2. Cost borne by users of coal and not general taxpayer. (However western producers would be paying to reclaim eastern orphan lands.)

Decision: General Fund approach. New Federal tax approach.

FEE SCHEDULES

All agencies agree that a substantial reduction from the taxes specified in S. 425 is a critical issue. Staff can develop any tax schedule needed for an Administration reclamation program depending on the resolution of the sub-issues listed above. Information below illustrates revenues available under two different approaches.

1. \$.10/ton increasing by \$.02 a year to \$.20 after 5 years

- Assuming deep and surface mining charged equally and assuming production constant at 600 million tons/year, total revenues collected are \$1.0 billion.

<u>Years</u>	<u>Fees</u>	<u>Revenues</u>
1 -----	10	\$ 60 million
2 -----	12	72
3 -----	14	84
4 -----	16	96
5 -----	18	108
6 to 10 -----	20	600
TOTAL		<u>\$1,020 million</u>

2. Charge \$.05/ton -- assuming deep and surface mining charged equally and assuming production constant at 600 million tons/year, total revenues collected are \$300 million.

ISSUE 2-- UNEMPLOYMENT

Issue - Special unemployment - should deletion be identified as a critical change from S.425?

S.425 Provides:

- . Grants to States for unemployment (UI) benefits to any individual who loses his job in the coal mining industry as a direct result of the closure of a mine because of this Act.
- . Those who are not otherwise eligible for UI assistance or who have exhausted their UI benefits can qualify.
- . Benefit level tied to State UI law.
- . Eligible individuals can receive benefits if previously employed for only 1 month of the previous year.
- . Provision is "open-ended" with no termination of benefits to any individual.

Administration change would:

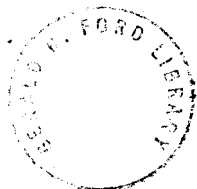
- . Delete the provision from S. 425.

Reasons for change: Train, Simon, Dent, Brennan, and Ash strongly support deletion because:

- . unfair discrimination between classes of UI.
- . cause of UI difficult to determine.
- . labor force attachment extremely weak.
- . length of benefits open-ended.
- . very bad precedent--other regulated industries would seek similar coverage.
- . UI benefits have just been extended for those who are either not covered or who have exhausted their present UI benefits.

Reasons against: Zarb feels strongly that this issue should not even be raised, while Morton and Peterson believe that this is not a critical change because:

- . Congress retained the UI provision in S.425 over strong Administration objections.
- . New Congress, given the present economic climate, will surely retain it.
- . With unemployment rates increasing, President would look bad opposing a UI bill -- no reason to gain unfavorable exposure on this issue.



Decision

- Delete from bill and identify as a critical issue.
- Do not identify as critical issue.

ISSUE 3 - FEDERAL ROLE IN INTERIM PROGRAM

Issue - Federal role in interim program - should minimization of the Federal role be identified as a critical change from S. 425?

S. 425 provides:

- Direct Federal mine inspection and enforcement from 135 days after enactment until permanent State program approved.
- Federal inspections of all surface coal mine sites on a random basis, but at least once every 3 months.
- Direct mandatory Federal enforcement action to correct any violation of the Act.

Administration change:

- Direct Federal oversight from 120 days after enactment until permanent program approved.
- Random Federal inspections of surface coal mining operations, but with no minimum frequency.
- States requested to take enforcement action to correct violations.
- Federal enforcement mandated only where a violation creates (a) "imminent danger" to public health or safety, or (b) "significant, imminent environmental harm."

Reasons for change: Dent, Simon, and Ash believe these modifications are critical.

- Massive Federal takeover in interim program would very likely lead to States' abrogating their responsibilities and Federal takeover of many States' permanent programs.
- Inspection of all mines every 90 days eliminates the Secretary's flexibility.
- All of the major coal mining States have reclamation programs and could more readily carry out such an interim enforcement program.

Reasons against: Morton, Zarb, Peterson, and Train reason that this is not a critical change.

- In major coal mining States where reclamation programs are in effect, Federal enforcement actions will not be extensive.
- This is Federal law and Federal Government in any event will be called upon to interpret and enforce provisions if States fail to act properly.
- Congress and environmentalists want assurance of an effective interim program.
- Because permit fees would make the reclamation program self supporting, the States would find it in their best interest to continue in their present efforts and eventually assume control of the permanent program.

Decision:

Identify as critical the minimization of the Federal role in the interim program.

Do not identify this issue as critical.



ISSUE #4 - IMPLEMENTATION TIMING
(Potential production impact)

Issue - Implementation of regulatory program - should S.425 be changed to provide more adequate implementation time?

S.425 Provides:

- . Following enactment no new mines may be opened until an interim permit is issued.
- . After 135 days of enactment existing operators may not continue to mine without an approved permit.
- . New mines operating under an interim permit must close down if they do not have a permanent permit within 30 months of enactment.
- . Similarly, new mines could not open following 30 months of enactment without a permanent permit.

Administration change:

- . New mines may be opened within 90 days of enactment; thereafter an interim permit would be required.
- . Existing operations must be in compliance within 120 days of issuance of an amended permit.
- . New mines would not be subject to the possible shut-down/moratorium situation as described above for S.425.

Reasons for change: Simon, Dent and Ash believe these changes are critical:

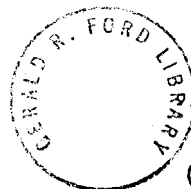
- . 90 days of new mine production could be saved that might otherwise be delayed.
- . Avoids a possible shut-down or moratorium of new mines following the 30 month period after enactment.
- . Avoids a shut-down on existing mines in cases where the State regulatory fails to act on an interim permit within 135 days of enactment.
- . Production losses would likely result if change is not made.

Reasons against: Morton, Zarb, Train, and Peterson do not see this as a critical change.

- . New mine production over the initial period would not be significant.
- . Believe that major coal mining States' regulatory authorities will be able to act swiftly with respect to existing mines.
- . Federal Government will be able to keep the program on track and avoid significant new mine shut-down/moratoriums following the initial 30 month implementation period.

Decision

- Identify as critical the change to provide for more adequate implementation.
- Do not identify this issue as critical.



ISSUE #5 - VARIANCE
(Potential production impact)

Issue - Variances from performance standards - should authority to grant additional variances be considered critical change from S. 425.

S. 425 provides:

Secretary can issue only limited variances to lengthy and detailed performance standards and these are limited to aspects of steep slope and mountain top mining.

Administration change:

- Enlarge very limited variances available for steep slope mining.
- Provide variance for lack of equipment availability.

Reasons for change: Simon, Dent, and Ash believe this change is critical.

- Without variances, bill contains numerous absolute prohibitions difficult if not impossible to comply with.
- Serious production delays could result where equipment is not available.
- The absolute nature of these prohibitions would greatly increase likelihood of litigation to close down a mine. The existence of some variance authority would greatly reduce such exposure.
- Retention of strict environmental controls on issuance of variance would prevent serious adverse environmental effect.

- Administration position has been to provide some such variance.

Reasons against: Morton, Zarb, Train, and Peterson believe:

- Would be totally unacceptable to Hill and would raise question whether Administration really wants a sound bill.
- Once absolute nature of prohibitions is diluted, widespread abuse of performance standards could occur which would be difficult to police.
- Environmentalists argue such variances are unnecessary, would diminish force of bill's thrust to prevent environmental abuse-- "attacks heart of bill."
- Equipment variances rarely needed except for mountain top mining.

Decision:

Change is critical.

Change is not critical.



ISSUE #6 - ALLUVIAL VALLEY FLOORS
(Potential production and reserve loss)

Issue - Near prohibition of mining on alluvial valley floors - should amendment be identified as critical change from S.425?

S.425 Provides:

Prohibits surface mining of alluvial valley floors where there is existing or potential farming and ranching and where operation would have "substantial adverse effect on valley floors".

Administration change:

(Sub-issue: What should change be?) ("a" & "b" are not mutually exclusive)

- | | |
|---|--|
| a. Restrict provision to where only existing farming or ranching is occurring. (Simon and Dent favor) | b. Modify provision to permit mining based on full reclamation of the land such that farming or ranching can be practiced as post-mining uses in the area. (Dent favors) |
|---|--|

Reasons for change: Dent, Simon, and Ash believe this is a critical change:

- | | |
|---|--|
| . Avoids locking up major deposits of low sulphur coal in the West. | . S.425 provision could be interpreted as termination of Federal leases for which compensation should be required. |
| . Avoids close down existing operations (number is not known). | . Should be a State decision. |

Reasons against: Morton, Zarb, Train, and Peterson believe:

- | | |
|---|---|
| . Issue is particularly sensitive with Western Congressmen. | . Most Western States will bar surface mining in alluvial valleys anyway. |
| . Prohibition is not absolute since "substantial adverse effect" must be found. | |

Decision

Main Issue

Change is critical

Change is not critical

Sub-issue

a. to restrict provision of existing ranch and farmlands

b. modify so as to permit if returned to original use.

and/or



ISSUE #7 - HYDROLOGIC DATA

(Potential small miner production impact)

Issue - Hydrologic data - should the authority of the Secretary to waive certain hydrologic data required in permits be identified as a critical change from S. 425.

S. 425 provides:

Requirement for the preparation and submission of extremely detailed hydrologic data in connection with application for the permit.

Administration change:

Provide that such hydrologic data must be submitted unless the Secretary expressly waives such submission based upon adequate data already being available to the authority.

Reasons for change: Simon and Dent see this as a critical issue.

- The regulatory authority should not place additional burdens upon permit applicants when the data is available elsewhere.
- This could hurt the small miner especially hard.
- Allowing waiver would reduce serious litigation potential arising from the specificity of the requirement and the placement of all burden of proof upon a permit applicant.
- Exercise of discretion by regulatory authority to execute the waiver would be subject to review in any event.

Reasons against: Morton, Zarb, Peterson, Train and Ash all believe this issue should not be considered "critical" when compared to the others.

- Net production impact will not be significant.
- Any weakening of data requirements could be misused and would undermine requirement that hydrology of area be returned to approximate premining conditions.
- Hydrologic data is extremely important and this change could be read in Congress as an Administration attempt to weaken the bill.
- Requiring the permit applicant to analyze and utilize hydrologic data whether secured by him or made available to him from existing sources is key to the applicants understanding of what measures he must take throughout the mining operation to avoid violations of his permit.

Decision

The waiver of these hydrologic data requirements should be identified as a critical issue.

Do not identify as critical issue.



ISSUE #8 - IMPOUNDMENTS
(Production and inflation)

Issue - Possible prohibition on impoundments of mine works - should deletion be identified as critical change from S. 425?

S. 425 provides:

- Design standards to guard against failure of dams that impound liquid mine wastes.
- Requirement that any new or existing impoundment be located so "that the location will not endanger public health and safety should failure occur."

Administration change would:

- Retain design standards.
- Modify location language to minimize danger to public health and safety should failure occur.

Reasons for change: Simon, Dent, and Ash believe:

- Design standards should provide needed protection.
- Literal interpretation of location requirement would virtually prohibit construction of impoundments and require removal of most existing ones.
- Literal interpretation will almost certainly be sued for in the courts.
- Alternative means of dealing with mine wastes likely to be very costly.

Reasons against: Morton, Zarb, Train, and Peterson believe:

- That provision will not be interpreted literally by the courts.
- Impoundments aren't necessary as other technology is available for handling wastes.
- Difficult to urge change without implication that Administration is willing to risk public health and safety.

Decision:

Change is critical.

Change is not critical.



ISSUE # 9 -- NATIONAL FOREST PROHIBITION
(Coal reserve loss)

Issue - Prohibition of surface mining on National Forests - should amendment be identified as critical change from S. 425?

S. 425 provides:

- ° Prohibition of surface coal mining on National Forests.

Administration change:

(Sub-issue: What should change be?)

- | | | |
|--|----|--|
| a. Delete entire restriction
(Simon, Dent, and Ash) | or | b. Provide authority for Secretary of Agriculture to waive after showing national need. (Morton, Zarb, Butz, Train, and Peterson favor.) |
|--|----|--|

Reason for change: Simon, Dent, and Ash believe S. 425:

- | | |
|---|---|
| <ul style="list-style-type: none">° Would significantly reduce surface minable reserves available for leasing.° Locks up 7 billion tons of strippable reserves mostly in Montana equaling: 11 years national production at current rates; 30% uncommitted Federal reserves in lower 48 States.° Would encourage development of restrictions for surface mining of all minerals from National Forests. | <ul style="list-style-type: none">° Would force leasing activities onto other lands where environmental and other costs might be higher.° Would be difficult to change later to permit surface mining.° Could look bad to be providing for surface mining elsewhere, but not on National Forests which are for multiple uses. |
|---|---|

Reasons against: Morton, Zarb, Butz, Train, and Peterson believe keeping existing provision:

- | | |
|---|--|
| <ul style="list-style-type: none">° Would encourage faster passage of bill.° Would help satisfy environmentalists. | <ul style="list-style-type: none">° Loss of reserves would not be critical because of massive private reserves and because of massive quantities of Federal coal already leased (26 years of total national production at current rates is available and already under Federal lease). |
|---|--|

Decision on main issue:

Change is critical.

Change is not critical.

Decision on Sub-issue:

Delete S. 425 restriction.

Provide authority to waive restriction.



AGREED-UPON CRITICAL CHANGES1. Citizen suits

S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act."

The Administration's change would authorize citizen suits directly against mining operations only where violations of regulations or permits are occurring.

The reason for the Administration's change is to avoid undermining the integrity of the bill's permit mechanism. If this change is not made, the result could be mine-by-mine litigation of virtually every ambiguous aspect of the bill -- even if an operation is in full compliance with existing regulations, standards, and permits -- on the grounds that such operations are otherwise in violation of "the provisions of this Act." This is unnecessary. The promulgation of regulations, the issuance of permits, and the monitoring and policing of all ongoing operations are all subject to public review.

2. Absolute prohibition on siltation

S. 425 would require mining operations to prevent increases in stream siltation outside of the permit area above "natural levels."

The Administration's change would require mining operations to prevent such siltation "to the maximum extent practicable."

The reason for the Administration's change is to eliminate an absolute performance standard (prevention) which would be extremely difficult, if not impossible, to achieve in most coal mining situations.

3. Absolutes regarding hydrology

S. 425 would require surface coal mining operators to (a) demonstrate before receiving a mining permit that the proposed operation "has been designed to prevent irreparable offsite impacts to hydrologic balance" and (b) preserve "throughout the mining and reclamation process the hydrologic integrity of the alluvial valley floors."

The Administration's change would require mining operations to prevent adverse impact upon such hydrologic balance and integrity "to the maximum extent practicable."

The reason for the Administration's change is to eliminate an absolute performance standard (prevention and preservation) which would be extremely difficult, if not impossible, to achieve in most coal mining situations.



4. Ambiguous terms

S. 425 did not explicitly authorize the Secretary of the Interior to define by regulation ambiguous terms in the legislation.

The Administration's change would provide the Secretary with express authorization to define ambiguous terms.

The reason for the Administration's change is to provide greater flexibility as problems of interpretation develop in implementation and administration of the Act. This authority could reduce potential danger of unexpectedly strict court interpretation of many provisions of the legislation which are unclear, and decrease the adverse impact if other proposed Administration changes are rejected (e.g. potential prohibitions re: sitation and hydrologic impact, alluvial valley floors, or possible anti-degradation interpretation).

5. Abandoned Mine Reclamation Fund

All agencies agree that another critical change is required with respect to the Abandoned Mine Reclamation Fund contained in S. 425. However, there is disagreement concerning the scope, fees, and jurisdiction of such a program. Accordingly, a separate issue paper is attached on this issue.



NONCRITICAL SUBSTANTIVE ISSUES AND
TECHNICAL DRAFTING CHANGES THAT
WOULD BE MADE IN AN ADMINISTRATION BILL

Administration changes would provide:

1. Elimination of surface owner consent requirement for mining Federal coal (future production and cost impact, windfall profits, absolute veto right of surface owner).
2. Deletion of Federal funding for research centers (Federal cost, need, value).
3. Anti-degradation language - deletion or clarification of nonintent (production impact, uncertainty).
4. Deletion of provision that operators adversely affected by regulation and employees who lose jobs because of this Act given (by S. 425) special preference on contracts for orphan land reclamation (counter to both contracting and unemployment policies).
5. Elimination of automatic moratorium on mining triggered in S. 425 by request to study area for unsuitability for mining (production impact).
6. Elimination of contract authority in substantive legislation (violation of spirit of Congressional Budget Reform and Impoundment Control Act).
7. Deletion of requirement that lessees of Federal coal must not deny any class of buyer coal. (Could interfere with integrated onsite electrical generation facilities).
8. Specifying interest charge for penalty delay at Treasury borrowing rate (vice 6%).
9. That regulatory authority be clearly authorized to spread permit fee over several years rather than as large front-end cost (small miner impact).
10. Mining within 500' of active mine authorized if can be done safely (production, reserve).
11. That haul roads from mine are not restricted from connecting with public roads (correction of drafting error).

NOTE: This does not imply that the Administration does not recognize certain surface owner rights, but the specific provisions in this bill are not suitable for recommendation by the Administration. The issue is left open for debate and negotiation. There is general agreement that inclusion in the final bill of the surface owner provisions of S. 425 should not be considered a critical item leading to veto.



COMPARISON OF VETOED S. 425 AND ADMINISTRATION BILL^{1/}

	<u>S. 425</u>	<u>Administration Alternative</u>
<u>Coal Production Loss</u>		
Interim program	18-50 M tons/yr.	15-50 M tons/yr. ^{2/}
Permanent program	48-140 M/tons/yr.	33-80 M tons/yr. ^{2/}
<u>Reserves locked up</u>	Undetermined	7-10 B tons <u>less</u> than S. 425, related primarily to National Forest provision, with alluvial valley provisions unlocking undetermined amounts.
<u>Inflationary Impact</u>	Effect disputed. Agreement that mining costs will increase and that foreign oil will have to be used to make up production losses. Total \$0.5 to \$2.0 B/yr.	Only major change is in elimination of reclamation fund -\$0.2 B/yr. Amount of production loss averted undetermined but <u>some</u> mitigation effect.
<u>Unemployment Assistance Approach</u>	Open-ended unemployment for any jobs lost through regulatory action - after other benefits exhausted.	No change from National unemployment provisions applicable to both regulated and unregulated industry.
<u>Excessive Direct Federal Involvement</u>	Direct Federal enforcement of National standards, even in States already regulating mines, pending Interior approval of new State system under the Act.	Discretionary Federal enforcement during interim period, except in cases of imminent hazard where enforcement mandatory.
<u>Administrative and Legal Uncertainties</u>	Many that potentially affect production, depending on future interpretation by courts.	Many uncertainties removed in specific drafting and in giving Secretary authority to define ambiguous terms.
<u>Impact on Small Mine Operators</u>	Potentially significant but uncertain.	Mitigated by all provisions that remove uncertainties but still not clearly predictable.

^{1/}Administration Bill assumed to be S. 425 as modified by all substantive changes listed on Tabs A, B, and C except for production losses (see footnote 2).

^{2/}Estimates assume solution of only the 5 points in Tab B. Interior advises production losses would be less if issues in Tab A are also solved.

S. 425Administration AlternativeImpact on Environment

Differences not quantifiable because they relate primarily to assumptions about future actions by State and Federal regulatory bodies, coal producers and courts. Administration provision on variances on alluvial valleys and National Forests will result in at least short term environmental damages that S. 425 would prevent. Extent uncertain.



1. Coal is the one abundant energy source over which the United States has total control. We should not unduly impair our ability to use it properly.
2. We are engaged in a major review of national energy policies. Unnecessary restrictions on coal production would limit our Nation's freedom to adopt the best energy options.
3. The United States uses the equivalent of 4 barrels of expensive foreign oil for every ton of unproduced domestic coal -- a situation which cannot long be tolerated without continued, serious economic consequences. This bill would exacerbate this problem.
4. Unemployment would increase in both the coal fields and in those industries unable to obtain alternative fuel.

In addition, S. 425 provides for excessive Federal expenditures and would clearly have an inflationary impact on the economy. Moreover, it contains numerous other deficiencies which have recently been addressed in Executive Branch communications to the Congress concerning this legislation.

In sum, I find that the adverse impact of this bill on our domestic coal production is unacceptable at a time when the Nation can ill afford significant losses from this critical energy resource. It would also further complicate our battle against inflation. Accordingly, I am withholding my approval from S. 425.

In doing so, I am truly disappointed and sympathetic with those in Congress who have labored so hard to come up with a good bill. We must continue to strive diligently

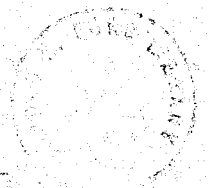


to ensure that laws and regulations are in effect which establish environmental protection and reclamation requirements appropriately balanced against the Nation's need for increased coal production. This will continue to be my Administration's goal in the new year.

Gerald R. Ford

THE WHITE HOUSE,

December 30, 1974.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 42

Date: February 5, 1975

Time: 9:30 a.m.

FOR ACTION: Phil Areeda *sk*
Max Friedersdoff
Paul Theiscc (for information): Warren Heddriks
Jerry Jones
Robert T. Hartmann
Jack Marsh*Paul O'neil - sk*

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, February 5

Time: 11:30 a.m.

SUBJECT:

Letters to Speaker of the House and President of the Senate transmitting "Surface Mining Control and Reclamation Act of 1975"

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

It is important to receive your comments on the above in order to transmit the bill early this afternoon. The enclosure pages need not be reviewed.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

DRAFT
2/5/75

Speaker/President of Senate

Dear _____

Our nation is faced with the need to find the right balance among a number of very desirable national objectives. We must find the right balance because we simply cannot achieve all desirable objectives at once.

In the case of legislation governing surface mining activities we must strike a balance between our desire for environmental protection and our need to increase domestic coal production. This matter has taken on added significance over the past few months as it has become clear that our abundant domestic reserves of coal must play a growing role in our nation's drive for energy independence.

Last December I concluded that it would not be in the nation's best interests for me to approve the surface mining bill which passed the 93rd Congress as S. 425. That bill would have:

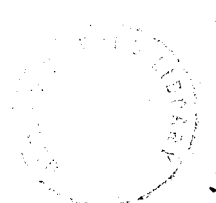
- Caused excessive coal production losses, including losses that are not necessary to achieve reasonable environmental protection and reclamation requirements. The Federal Energy Administration estimated that the bill, during its first full year of operation would reduce coal production between 48 and 141 million tons, or approximately 6 to 18% of the expected production and threatened additional losses which could not be quantified because of ambiguities in the bill. Losses of coal production are particularly important because each ton of coal can mean the need to import four additional barrels of foreign oil.



- . Caused inflationary impacts because of increased coal costs and Federal expenditures for activities which, however desirable, are not necessary at this time.
- . Failed to correct other deficiencies that had been pointed out in Executive Branch Communications concerning the bill.

The energy program that I outlined in my State of the Union Message contemplates the doubling of our nation's coal production by 1985. Within the next ten years, my program envisions opening 250 major new coal mines, the majority of which must be surface mines, and the construction of approximately 150 new coal fired electric generating plants. I believe that we can achieve these goals and still meet reasonable environmental protection standards.

I have again reviewed S. 425 as it passed the 93rd Congress (which has been reintroduced in the 94th Congress as S. 7 and H.R. 25) to identify those provisions of the bill where changes are critical to overcome the objections which led to my disapproval last December. I have also identified a number of provisions of the bill where changes are needed to reduce further the potential for unnecessary production impact and to make the legislation more workable and effective. These changes are summarized in the first enclosure to this letter. These few but important changes will go a long way toward achieving precise and balanced legislation.



The second enclosure identifies the specific sections of S. 425 which are modified to incorporate the Administration's changes. The third enclosure is the bill that I recommended that the Congress pass. With the exception of the changes described in enclosures one and two the bill follows S. 425.

I believe that surface mining legislation must be reconsidered in the context of our current national needs. I urge the Congress to consider the enclosed bill carefully and pass it promptly.



SUMMARY OF CHANGES FROM S. 425 (S. 7 and H.R. 25)
INCORPORATED IN THE ADMINISTRATION'S
SURFACE MINING BILL

The Administration bill follows the basic framework of S. 425 in establishing Federal standards for the environmental protection and reclamation of surface coal mining operations. Briefly, the Administration bill, like S. 425:

- covers all coal surface mining operations and surface affects of underground coal mining;
- establishes minimum nation-wide reclamation standards;
- places primary regulatory responsibility with the States with Federal backup in cases where the States fail to act;
- creates a reclamation program for previously mined lands abandoned without reclamation;
- establishes reclamation standards on Federal lands.

The changes summarized below have been incorporated in the Administration bill.

Most critical changes.

1. Citizen suits. S. 425 would allow citizen suits against any person for a "violation of the provisions of this Act." This could undermine the integrity of the bill's permit mechanism and could lead to mine-by-mine litigation of virtually every ambiguous aspect of the bill even if an operation is in full compliance with existing regulations, standards and permits. This is unnecessary and could lead to production delays or curtailments. Citizen suits are retained in the Administration bill but are designed to authorize suits against the mining operations only when there are violations of regulations or permits.
2. Stream siltation. S. 425 contains an absolute prohibition against increased stream siltation which would be extremely difficult and probably impossible to meet and thus could preclude mining activities. This prohibition must be modified to set a performance standards that is achievable, yet while adequately protecting the environment.
3. Hydrologic Disturbances. S. 425 contains an absolute prohibition against hydrologic disturbances which will be impossible to meet, is unnecessary for reasonable environmental protection and could preclude most mining

activities. This provision is modified to prevent disturbances to the maximum extent practicable which provides for achieving a balance between environmental protection and coal production.

4. Abandoned land reclamation fund. S. 425 establishes a tax of 35¢ per ton for underground mined coal and 25¢ per ton for surface mined coal to finance reclamation of previously mined lands that have been abandoned unreclaimed -- and for other purposes. This tax is unnecessarily high to finance needed reclamation. The Administration bill would set the tax at 10¢ per ton for all coal, providing over \$1 billion over ten years which should be ample to reclaim that abandoned coal mined land in need of reclamation.

S. 425 would provide that funds accrued from the tax on coal could be used by the Federal government to construct roads, utilities, and public buildings on reclaimed mined lands. Furthermore, such funds could be distributed to States to finance roads, utilities and public buildings in any area where coal mining activity is expanding. This provision needlessly duplicates other Federal, State, and local programs, and establishes eligibility for Federal grant funding in a situation where facilities are normally financed by local or State borrowing and where need is not established for such a grants approach is not established.

5. Impoundments. S. 425 as now worded could prohibit or unduly restrict the use of most new or existing impoundments, even though constructed to adequate safety standards. The provisions on location of impoundments must be modified.
6. National Forests. S. 425 contains a prohibition against mining in the national forests which is inconsistent with multiple use principles and which could unnecessarily lock up 7 billion tons of coal reserves (approximately 30% of the uncommitted Federal surface-minable coal in the contiguous states). This provision should be modified to permit the Agriculture Secretary to waive the requirement in specific areas after multiple resource analysis indicates that such mining would be in the public interest.
7. Ambiguous terms. S. 425 does not explicitly authorize the Secretary to define by regulation ambiguous terms in the legislation. There is a potential for unexpectedly strict court interpretation of the bill's ambiguous provisions which would thus increase the potential for unnecessary adverse production impact. The Administration bill provides explicit authority for the Secretary to define ambiguous terms, thus both clarifying the regulatory process and minimizing delays due to litigation.

8. Special unemployment provisions. The unemployment provision should be deleted because it would (1) cause unfair discrimination among classes of unemployed persons (2) be difficult to administer, and (3) set unacceptable precedents with respect to open-ended benefits and weak labor force attachment requirements. It is inconsistent with P.L. 93-567 and P.L. 93-572 which significantly broaden general unemployment compensation.

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

1. Antidegradation. S. 425 contains a provision which, if unchanged and literally interpreted by the courts, could lead to a non-degradation standard (similar to that found in the case of the Clean Air Act) which goes beyond the environmental and reclamation requirements of the bill and which could disrupt production.
2. Reclamation fund. S. 425 provides authorization for funds to assist private landowners in reclaiming their lands mined over in past years. Such a program would result in windfall gains to the private landowners who would maintain title to their lands while having them reclaimed at Federal expense. The Administration bill deletes this provision.
3. Interim program timing. Under S. 425, mining operations could be forced to close down simply because the regulatory authority had not completed action on a mining permit, through no fault of the operator. This should be revised to minimize the possibility of unanticipated delays and production losses.
4. Federal preemption. Under S. 425, the Federal interim program role could lead to the preemption of State regulatory activities and to discouraging States from assuming an active permanent regulatory role -- leaving the function to the Federal government. This requirement should be revised to limit the Federal enforcement role to situations where a violation creates an imminent danger to public health and safety or significant environmental harm.



5. Surface owner consent. The requirement in S. 425 for surface owner's consent modifies substantially existing law by transferring to the surface owner coal rights that presently reside with the Federal government. S. 425 would give the surface owner the right to "veto" the mining of Federally owned coal or enable him to realize a substantial windfall whenever consenting to the surface mining on his surface estate. In addition, the status of holders preference right applications is unclear in S. 425. Consent requirements should be left up to existing law. Therefore the Administration bill does not change surface owner rights.
6. Federal lands. S. 425 sets an unacceptable precedent by extending State control over mining of Federally owned coal on Federal lands. Federal regulations governing such activities should not be preempted by State regulations.
7. Research centers. S. 425 provides additional funding authorization for mining research centers through a formula grant program for existing schools of mining. This provisions establishes an unnecessary new spending program duplicates existing authorities for conduct of research and could fragment existing research efforts already supported by the Federal government. The provision is deleted in the Administration bill.
8. Prohibition on mining in alluvial valley floors. The application of this provision in S. 425 to western areas where farms or ranches do not currently exist is an unnecessary prohibition which might close some existing mines and which would lock up significant coal reserves. Under proposed changes, reclamation of such areas would be required, making the restriction unnecessary.
9. Potential moratorium on issuing mining permits. Two provisions of the bill working together could lead to an unnecessary delay in the granting of permits for mining on lands that may be under study as to their suitability for surface coal mining. This should be modified to insure expeditious consideration of whether certain areas may be designated as unsuitable for surface coal mining and to insure that the required review is interpreted as a "study" which would then lead to a temporary moratorium on issuing operating permits on all Federal lands.
10. Hydrologic Data. Under S. 425, an applicant would have to provide hydrologic data even where the data are already available -- a potentially serious and unnecessary workload for small miners. The bill should be changed to authorize the regulatory authority to waive the requirement, in whole or in part, when the data are available through sources other than the permit applicant.



11. Variiances. The lengthy and detailed performance specifications do not allow a reasonable amount of authority for the regulatory authority to grant variances. The bill should allow limited variances in cases where it is consistent with past mining uses and to accommodate equipment shortages during an interim program.
12. Permit fee. The current requirement for payment of the mining fee before operations begin could impose a large "front end" cost when could force some operators out of business. The regulatory authority should have the authority to extend the fee over several years.
13. Preferential contracting. S. 425 requires that special preference be given in reclamation contracts to operators who lose their jobs because of the bill. Such preferential hiring should be deleted -- such hiring should be based solely on an operators reclamation capability.
14. Any class of buyer. The requirement of S. 425 that lessees of Federal coal must not refuse to sell coal to any class of buyer could interfere with both planned and existing coal mining operations in integrated facilities. This provision should be deleted.
15. Contract authority. S. 425 provides contract authority for administrative costs associated with the bill. This is unnecessary and inconsistent with the thrust of the Congressional Budget Reform and Impoundment Control Act. Such costs under the Administration bill would be financed through appropriations.
16. Indian lands. S. 425 can be construed to require the Secretary of the Interior to regulate coal mining on non-Federal Indian lands. The definition of Indian lands should be modified to eliminate this possibility.
17. Interest charge. S. 425 does not provide a reasonable level of interest charged on unpaid penalties. The bill should provide for an interest charge based on Treasury borrowing rates to assure a sufficient incentive for prompt payment of penalties.
18. Mining within 500 feet of an active mine. This prohibition could unnecessarily remove some coal from potential mining even when its use would be the best possible use of the lands. Such mining should be allowed as long as it can be done safely.
19. Haul roads. Current requirements pf S. 425 could preclude some mine operators from moving their coal to market. The bill should be clarified so as to not restrict the connection of haul roads to public roads.



LISTING OF PROVISIONS IN THE S. 425 (S. 7 & H. R. 25)
 THAT ARE CHANGED IN THE ADMINISTRATION'S BILL

Subject	Title or Section S. 425, S. 7, HR 25	Administration Bill
<u>Critical Changes</u>		
1. Modify prohibition against stream siltation	515(b)(10)(B) 516(b)(9)(B)	415(b)(10)(B) 416(b)(9)(B)
2. Modify prohibition against hydrological disturbances	510(b)(3) 515(b)(10)(E)	410(b)(3) 415(b)(10)(E)
3. Clarify and limit the scope of citizens suits	520	420
4. Provide executive authority to define ambiguous terms in the act.	None	601(b)
5. Reduce the tax on coal to more nearly conform with reclamation needs and budgetary requirements	401(d)	301(d)
6. Delete special unemployment provisions	708	None
7. Modify the provision on location of impoundments	515(b)(13) 516(b)(5)	415(b)(13) 416(b)(5)
8. Modify the prohibition against mining in the national forests	522(e)(2)	422(e)(2)
<u>Other Important Changes</u>		
1. Delete or clarify language which could lead to unintended "antidegradation" interpretations.	102(a) and (d)	102(a) and (c)
2. Modify the abandoned land reclamation program to (1) provide both Federal and State acquisition and reclamation with 50/50 cost sharing, and (2) eliminate cost sharing for private land owners	Title IV	Title III
3. Delete funding for research centers	Title III	None
4. Revise timing requirements for interim program to minimize unanticipated delays	502(a) thru (c) 506(a)	402(a) and (b) 406(a)



Subject	S. 425;S. 7; HR 25	New Bill
5. Reduce Federal preemption of State role during interim program	502(f) 521(a)(4)	402(c) 421(a)(4)
6. Provide authority to waive hydrologic data requirements when data already available	507(b)(11)	407(b)(11)
7. Eliminate possible delays relating to study of designation as unsuitable for mining	510(b)(4) 522(c)	410(b)(4) 422(c)
8. Clarify authority with respect to permit fee	507(a)	407(a)
9. Revise the prohibition on mining in alluvial valley floors to limit substantial adverse effect on existing farms or ranches	510(b)(5)	410(b)(5)
10. Modify variance provisions for mountiantop mining and equipment shortages	515(c)	402(d) 415(c)
11. Permit mining within 500' of an active mine where this can be done safely	515(b)(12)	415(b)(12)
12. Clarify the restriction on haul roads from mines connecting with public roads	522(e)(4)	422(e)(4)
13. Eliminate requirement that Federal lands adhere to requirements of State programs	523(a)	423(a)
14. Establish an adequate interest charge on unpaid penalties to avoid incentive to delay payments	518(d)	418(d)
15. Delete requirement on sales of coal by Federal lessees	523(e)	None
16. Clarify definition of Indian lands to assure that Secretary of Interior does not control non-Federal Indian lands.	701(9)	601(a)(9)
17. Delete preferential contracting on orphaned land reclamation	707	None
18. Eliminate contract authority for administrative costs	714	612
19. Eliminate surface owner consent requirement; continue existing surface and mineral rights	716	613

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 42

Date: February 5, 1975

Time: 9:30 a.m.

FOR ACTION: Phil Areeda ✓
Max Friedersdorf
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones
Robert T. Hartmann
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, February 5

Time: 11:30 a.m.

SUBJECT:

Letters to Speaker of the House and President of the Senate transmitting "Surface Mining Control and Reclamation Act of 1975"

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

It is important to receive your comments on the above in order to transmit the bill early this afternoon. The enclosure pages need not be reviewed.

Please return to Judy Johnston, Ground Floor West Wing

No objection
P. Areeda



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

February 5, 1975

MEMORANDUM FOR:

WARREN HENDRIKS

FROM:

MAX L. FRIEDERSDORF 

SUBJECT:

Action Memorandum - Log No. 42
Letters to Speaker of the House
and President of the Senate
transmitting "Surface Mining Control
and Reclamation Act of 1975"

The Office of Legislative Affairs concurs with the Agencies
that the enrolled bill should be signed with corrections noted
on attached.

Attachments



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 42

Date: February 5, 1975

Time: 9:30 a.m.

FOR ACTION: Phil Areeda
Max Friedersdorf
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones
Robert T. Hartmann
Jack Marsh

all ok 2/5/75

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, February 5

Time: 11:30 a.m.

SUBJECT:

Letters to Speaker of the House and President of the Senate transmitting "Surface Mining Control and Reclamation Act of 1975"

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks



REMARKS:

It is important to receive your comments on the above in order to transmit the bill early this afternoon. The enclosure pages need not be reviewed.

57 FEB 5 AM 9 57

Please return to Judy Johnston, Ground Floor West Wing

MB

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

Speaker/President of Senate

Dear _____

Our nation is faced with the need to find the right balance among a number of very desirable national objectives. We must find the right balance because we simply cannot achieve all desirable objectives at once.

In the case of legislation governing surface ^{coal} mining activities, we must strike a balance between our desire for environmental protection and our need to increase domestic coal production. This ^{consideration} ~~matter~~ has taken on added significance over the past few months. ~~It~~ it has become clear that our abundant domestic reserves of coal must ^{be} ~~play~~ a growing ^{part} ~~role~~ in our nation's drive for energy independence.

Dec 30, 1974

Last December, I concluded that it would not be in the nation's best interests for me to approve the surface ^{coal} mining bill which passed the 93rd Congress as S. 425. That bill would have:

- Caused excessive coal production losses, including losses that are not necessary to achieve reasonable environmental protection and reclamation requirements. The Federal Energy Administration estimated that the bill, during its first full year of operation would reduce coal production between 48 and 141 million tons, or approximately 6 to 18% of the expected production ~~and threatened additional losses which could not be quantified because of ambiguities in the bill.~~ ^{lost} Losses of coal production are particularly important because each ^{lost} ton of coal can mean ~~the need to~~ ^{importing} four additional barrels of foreign oil.

Dec 30, 1974
Weekly
Comp.

Additional losses could result which cannot be quantified because of ambiguities in the bill.

- Caused inflationary impacts because of increased coal costs and Federal expenditures for activities which, however desirable, are not necessary at this time.
- Failed to correct other deficiencies that had been pointed out in ~~Executive Branch~~ Communications concerning the bill.

1/15/75

The energy program that I outlined in my State of the Union Message contemplates *OK* the doubling of our nation's coal production by 1985. Within the next ten years, my program envisions opening 250 major new coal mines, the majority of which must be surface mines, and the construction of approximately 150 new coal fired electric generating plants. I believe that we can achieve these goals and still meet reasonable environmental protection standards.

11
500
address

Reid's
Office

Dec
30, 1974

I have again reviewed S. 425 as it passed the 93rd Congress (which has been reintroduced in the 94th Congress as S. 7 and H.R. 25) to identify those provisions of the bill where changes are critical to overcome the objections which led to my disapproval last December. I have also identified a number of provisions of the bill where changes are needed to reduce further the potential for unnecessary production impact and to make the legislation more workable and effective. *OK* These changes are summarized in the first enclosure to this letter. *OK* These few but important changes will go a long way toward achieving precise and balanced legislation.

and are incorporated in the enclosed draft bill.

OK

~~The second enclosure identifies the specific sections of S. 425 which are modified to incorporate the Administration's changes. V The third~~

~~enclosure is the bill that I recommended that the Congress pass.~~

With the exception of the changes described in enclosure ^{the first} ~~one and two~~ the bill follows S. 425.

I believe that surface mining legislation must be reconsidered in the context of our current ^Iational needs. I urge the Congress to consider the enclosed bill carefully and pass it promptly.



Office of the White House Press Secretary

THE WHITE HOUSE

The following material is available in the packet on the Strip Mining Bill:

1. Letter from the President to the Speaker of the House of Representatives and the President of the Senate.
2. Summary of Principal Changes from S. 425 Incorporated in the Administration's Surface Mining Bill.
3. Listing of Principal Provisions in S. 425 that are changed in the Administration's Bill.

#

February 6, 1975

FOR IMMEDIATE RELEASE:

Office of the White House Press Secretary

THE WHITE HOUSE

The following material is available in the packet
on the Strip Mining Bill:

1. Letter from the ~~President~~ President ~~to the~~ to the Speaker of the House of Representatives and the President of the Senate.
2. Summary of Principal Changes From S. 425 Incorporated in ~~the~~ the Administration's Surface Mining Bill.
3. Listing of Principal Provisions in S. 425 that are changed in the Administration's Bill.

#