

PUBLIC LAW 95-87

Surface Mining Control and Reclamation Act of 1977

An unofficial OSM compilation of P.L. 95-87 and all
revisions through December 31, 1993

PREFACE

This document contains Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), passed August 3, 1977, and all revisions through December 31, 1993.

The text has been proofed against the original 1977 printed version of the Act (typographical errors in the Act were removed). All amending language has been incorporated into the Text, with reference to the amending Act following each revised section or subsection. The actual language and complete citation of all Acts affecting SMCRA are considered as amendments for the purposes of this publication irrespective of whether they are designated as amendments in the U.S. Code.

Care has been taken to ensure the corrections of the text and revisions. However, users of this compilation should be aware when citing the Act that the U.S. Code is the only official source.

Questions about this document should be directed to the Branch of State Programs, Division of Regulatory Programs, Washington, D.C. 20240 (202-208-5361).

CONTENTS

TITLE I - STATEMENT OF FINDINGS AND POLICY

Section	Page
101. Findings	1
102. Purposes	2

**TITLE II - OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

201. Creation of the Office	4
---------------------------------------	---

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

[Note: As of 1984, Title III is no longer part of SMCRA but a related Act,
the Mining and Mineral Institute Act of 1984.]

301. Authorization of State allotments to institutes	7
302. Research funds to institutes	8
303. Funding criteria	9
304. Duties of the Secretary	10
305. Autonomy	11
306. Miscellaneous provisions	11
307. Center for cataloging	12
308. Interagency cooperation	12
309. Committee	13
310. Eligibility criteria	14
*. Strategic Resources Generic Mineral Technology Center	15

*Specific cite was not designated in the Strategic and Critical Minerals Act of 1990.

TITLE IV - ABANDONED MINE RECLAMATION

401. Abandoned Mine Reclamation Fund and Purposes	16
402. Reclamation fee	18
403. Objectives of fund	24
404. Eligible lands and water	25
405. State reclamation programs	26
406. Reclamation of rural lands	28

Page

407.	Acquisition and reclamation of land adversely affected by past coal mining practices	30
408.	Liens	33
409.	Filling voids and sealing tunnels	34
410.	Emergency powers	35
411.	Certification	36
412.	Fund report	37
413.	Miscellaneous powers	37
414.	Interagency cooperation	38

**TITLE V - CONTROL OF THE ENVIRONMENTAL IMPACTS
OF SURFACE COAL MINING**

501.	Environmental protection standards	39
*	Abandoned coal refuse sites	39
502.	Initial regulatory procedures	40
503.	State programs	42
504.	Federal programs	44
505.	State laws	46
506.	Permits	46
507.	Application requirements	48
508.	Reclamation plan requirements	53
509.	Performance bonds	54
510.	Permit approval or denial	55
511.	Revision of permits	58
512.	Coal exploration permits	59
513.	Public notice and public hearings	60
514.	Decisions of regulatory authority and appeals	61
515.	Environmental protection performance standards	62
516.	Surface effects of underground coal mining operations	73
517.	Inspections and monitoring	75
518.	Penalties	77
519.	Release of performance bonds or deposits	80

*Specific cite was not designated in the Energy Policy Act of 1992.

Section	Page
520. Citizen suits	82
521. Enforcement	83
522. Designating areas unsuitable for surface coal mining	86
523. Federal lands	89
524. Public agencies, public utilities, and public corporations	90
525. Review by Secretary	91
526. Judicial review	92
527. Special bituminous coal mines	94
528. Surface mining operations not subject to this Act	95
529. Anthracite coal mines	95

**TITLE VI - DESIGNATION OF LANDS UNSUITABLE
FOR NONCOAL MINING**

601. Designation procedures	96
---------------------------------------	----

**TITLE VII - ADMINISTRATIVE AND MISCELLANEOUS
PROVISIONS**

701. Definitions	98
702. Other Federal laws	101
703. Employee protection	102
704. Penalty for interference	103
705. Grants to the States	103
706. Annual report	104
707. Severability	104
708. Alaskan surface coal mine study	104
709. Study of reclamation standards for surface mining of other minerals	105
710. Indian lands	106
711. Experimental practices	107
712. Authorization of appropriations	108
713. Coordination of regulatory and inspection activities	108
714. Surface owner protection	109

Section	Page
715. Federal lessee protection	110
716. Alaska coal	110
717. Water rights and replacement	110
718. Advance appropriations	111
719. Certification and training of blasters	111
720. Subsidence	111
721. Research	112

TITLE VIII - UNIVERSITY COAL RESEARCH LABORATORIES

801. Establishment of university coal research laboratories	113
802. Financial assistance	114
803. Limitation on payments	115
804. Payments	115
805. Advisory Council on Coal Research	116
806. Authorization of appropriations	117

TITLE IX - ENERGY RESOURCE GRADUATE FELLOWSHIPS

901. Program authorized	118
902. Awarding of fellowships	118
903. Distribution of fellowships	119
904. Stipends and institutions of higher education allowances	119
905. Limitation	119
906. Fellowship conditions	120
907. Appropriations authorized	120
908. Research and demonstration projects of alternative coal mining technologies	121

AMENDING ACTS

TITLE II - OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Section		Page
201(b)	Compensation of Director to be at level V of Executive Schedule	143
201(b)	Functions performed by Civil Service Commission transferred to Director, Office of Personnel Management	144
201(e)	Consideration of OSMRE as an independent Federal regulatory agency for purposes of Sections 3502 and 3512 of Title 44 of the United States Code repealed	145

TITLE III - STATE MINING AND MINERAL RESOURCES AND RESEARCH INSTITUTES

301-309	Recodified, with provisions similar to those in original sections, new Section 310 added	146
301(a)(1)	Allotment of grants authorization period; limitation	153
301(a)(2)(A)	Matching funds requirement	153
301(b)	Research subject	153
302(a)	Research grants authorization period	153
304, 309, 402, 719, 801, 805	Bureau of Mines redesignated	157
304(a)	Administration	154
306(c)	[306(d) prior to 08/29/84, recodification] Patent and trademark procedures regarding products of an institute financed under Pub. L. 95-87 preempted	160
306(c)	"section 3324(a) and (b) of Title 31" substituted for "section 3684 [3648] of the Revised Statutes (31 U.S.C. 529)"	161
306(d)	Administrative expenses	154
309(a)(7)	Advisory committee	154
309(e)	Plan update	154
310(b)	Eligibility	154
Title III	Strategic and Critical Minerals Act of 1990	158

TITLE IV - ABANDONED MINE RECLAMATION

Section	Page
401(b) Sources of deposits	123
401(c) Use of money	124
401(c)(1) State regulatory authority underwriting of subsidence insurance indemnification of private property authorized and partially funded	162
401(c)(6) Research	139
401(c)(11), (12),(13) Conforming amendments	136
401(e) Interest	124
402(b) Due date	124
402(b) Extension of fee program	135
402(b) Year 1995 changed to 2004	142
402(c) Statement	124
402(d) Audits	125
402(f) Notice	125
402(g) Allocation of funds	125
402(g)(1) Language added: "Except as provided in Subsection (h)" . . .	136
402(g)(2) "chapter 69 of title 31" substituted for "the Act of October 20, 1976 Public Law 94-565 (91 Stat. 2662) [30 U.S.C. 1601 et. seq.]"	161
402(g)(3) State set-aside for future expenditures of up to ten per centum of annual State funds from the Abandoned Mine Land Reclamation Fund	164
402(h) Transfer of funds to Combined Fund	135
403(a) Priorities	128
403(a) Paragraph 4 deleted and paragraphs renumbered	139
403(b) Utilities and other facilities	128
403(b)(2) Technical amendment	140
403(c) Inventory	129
404 Eligible lands and waters	129
404 Eligibility	137
405 State reclamation programs	129
405(b) 60 day-review-period limitation when granting AML funds to States established	165
405(k) Approval of Abandoned Mine Land Plans for Navajo, Hopi and Crow tribes without prior approval of Title V regulatory program	166

406(d) Clarification 130

Section	Page	
406(d)	Secretary of Agriculture permitted to do experimental surface mining reclamation of land in hydrologic units of not more than 25,000 acres	167
406(i)	Repealed	132
409(a)-(c)	Voids and tunnels	130
410(a)	Certification	130
410(b)	Eligible lands, water, and facilities	131
410(c)	Priorities	131
410(d)	Specific sites and areas not eligible	131
410(e), (f)	Utilities and other facilities	131
410(g)	Application of other provisions	132
411-413	Redesignated as 412, 413 and 414	130

TITLE V - CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

501	Abandoned coal refuse sites	137
507(b)(14)	Cross-sections, maps, or plans submitted with an application for a surface mining and reclamation permit required to be prepared by a qualified engineer, geologist, or land surveyor in any State which authorizes surveyors to prepare and certify such maps or plans	168
507(c)	Small operator assistance	132
507(c)	Assistance to small coal operators	140
507(h)	Added: Reimbursement of costs	141
509	Fiscal year 1988 performance bond forfeitures may be used to reclaim lands adversely affected by coal mining after August 3, 1977	169
510(e)	Modification of prohibition	136
515(b)(20)	Period of Responsibility	136
518	Fiscal year 1988 through 1993 civil penalty assessments may be used to reclaim lands adversely affected by coal mining after August 3, 1977	169
528	Repeal of two-acre exemption	170

**TITLE VII - ADMINISTRATIVE AND MISCELLANEOUS
PROVISIONS**

Section	Page
701(c) Definitions	137
701(d) Eligibility	137
710(i) Added: Grants	141
712(a), (b) Funding authorization increased for Sections 502, 523, and 710 in FY 1979 and 1980 and for Section 507(c) in FY 1978-80	172
712(b) Reference	132
720 Added: Subsidence	138
721 Added: Research	140

TITLE VIII - UNIVERSITY COAL RESEARCH LABORATORIES

801(a)	Number of university and research laboratories increased to 13; "Secretary of Energy" substituted in "Administrator, Energy Research and Development Administration (herein referred to as "Administrator" in this title)"	173
801(b)(1)	"Those ten institutions of higher education designated as provided in subsection (e)" substituted for "The institution of higher education"	173
806(a)	Appropriations for university coal research laboratories revised	173
Title VIII	"Secretary of Energy" substituted for "Administrator" and "Administrator, ERDA"	173
Title VIII	Functions of Administrator of Federal Energy Administration or Energy Research and Development Administration transferred to Secretary, Department of Energy	175

TITLE IX - ENERGY RESOURCE GRADUATE FELLOWSHIPS

Section	Page
Title IX Functions of Administrator of Federal Energy Administration or Energy Research and Development Administration transferred to Secretary, Department of Energy	175
Title IX Functions of Assistant Secretary for Education and Commissioner of Education of Department of Health, Education, and Welfare transferred to Secretary, Department of Education	178

APPROPRIATIONS

Supplemental appropriations for FY 1978	179
Authorization and appropriation for FY 1978	
Appropriation for FY 1980	182
Appropriation for FY 1981	184
Partial rescission of appropriations for FY 1981	186
Authorized appropriation limits and exceptions for FY 1981-84	187
Appropriations for FY 1982	188
Supplemental appropriation for FY 1982	190
Continuing appropriations for FY 1983	192
Further continuing appropriations for FY 1983	193
Appropriations for FY 1983	194
Supplemental appropriations for Office of Solicitor regarding enforcement measure of previously issued cessation orders where there is no abatement by operator, and supplemental appropriation and deferral for AML	196
Appropriations for FY 1984 and limitation on State AML project administration expenses	197
Supplemental appropriations for FY 1984 making \$42,000,000 available for an AML grant to Pennsylvania to acquire private homes and businesses in Centuria	199
Supplemental appropriations for FY 1984 making \$1,000,000 available to Montana through its AML program to reclaim the Colorado Tailings site	201
Second supplemental appropriation for FY 1984	202
Continuing appropriation for FY 1985	203
Appropriations for FY 1986	206
Continuing appropriations for FY 1987, 10/18/86	209
Continuing appropriations for FY 1987, 10/30/86	212
Supplemental appropriations for FY 1987 amending Sec. 405(k) by providing for the approval of Navajo, Hopi and Crow Tribe Abandoned Mine Land Plans without prior approval of Title V regulatory program	215
Continuing appropriations for FY 1988	216
Appropriations for FY 1989	219
Appropriations for FY 1990	223
Appropriations for FY 1991	226
Appropriations for FY 1991	230
Appropriations for FY 1992	231
Appropriations for FY 1993	234
Appropriations for FY 1994	237

PUBLIC LAW 95-87

Preamble

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1977".

TITLE I -- STATEMENT OF FINDINGS AND POLICY

FINDINGS

[30 U.S.C. 1201]

SEC 101. The Congress finds and declares that -

- (a) extraction of coal and other minerals from the earth can be accomplished by various methods of mining, including surface mining;
- (b) coal mining operations presently contribute significantly to the Nation's energy requirements; surface coal mining constitutes one method of extraction of the resource; the overwhelming percentage of the Nation's coal reserves can only be extracted by underground mining methods, and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry;
- (c) many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources;
- (d) the expansion of coal mining to meet the Nation's energy needs makes even more urgent the establishment of appropriate standards to minimize damage to the environment and to productivity of the soil and to protect the health and safety of the public.
- (e) surface mining and reclamation technology are now developed so that effective and reasonable regulation of surface coal mining operations by the States and by the Federal Government in accordance with the requirements of this Act is an appropriate and necessary means to minimize so far as practicable the adverse social, economic, and environmental effects of such mining operations;

Sec. 101

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

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

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

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

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

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

PURPOSES **[30 U.S.C. 1202]**

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

(a) establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations;

(b) assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from such operations;

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

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

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

(f) assure that the coal supply essential to the Nation's energy requirements, and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy;

Sec. 102

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

(h) promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public;

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

(j) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

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

(l) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the field of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in various States; and

(m) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through effective control of surface coal mining operations.

**TITLE II – OFFICE OF SURFACE MINING RECLAMATION AND
ENFORCEMENT**

**CREATION OF THE OFFICE
[30 U.S.C. 1211]**

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

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of the United States Code, and such other employees as may be required. Pursuant to section 5108, title 5, and after consultation with the Secretary, the Director of the Office of Personnel Management shall determine the necessary number of positions in general schedule employees in grade 16, 17, and 18 to perform functions of this title and shall allocate such positions to the Secretary. The Director shall have the responsibilities provided under subsection (c) of this section and those duties and responsibilities relating to the functions of the Office which the Secretary may assign, consistent with this Act. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer the provisions of this Act. The Office may use, on a reimbursable basis when appropriate, employees of the Department and other Federal agencies to administer the provisions of this Act, providing that no legal authority, program, or function in any Federal agency which has as its purpose promoting the development or use of coal or other mineral resources or regulating the health and safety of miners under provisions of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742), shall be transferred to the Office.

Note: Subsection 201(b) amended March 7 and May 23, 1978.

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

(1) administer the programs for controlling surface coal mining operations which are required by this Act; review and approve or disapprove State programs for controlling surface coal mining operations and reclaiming abandoned mine lands; make those investigations and inspections necessary to insure compliance with this Act; conduct hearings, administer oaths, issue subpoenas, and compel the attendance of witnesses and production of written or printed material as provided for in this Act; issue cease-and-desist orders; review and vacate or modify or approve orders and decisions; and order the suspension, revocation, or withholding of any permit for failure to comply with any of the provisions of this Act or any rules and regulations adopted pursuant thereto;

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

Sec. 201

(3) administer the State grant-in-aid program for the development of State programs for surface and mining and reclamation operations provided for in Title V of this Act;

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

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

(6) consult with other agencies of the Federal Government having expertise in the control and reclamation of surface mining operations and assist States, local governments, and other eligible agencies in the coordination of such programs;

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

(8) develop and maintain an Information and Data Center on Surface Coal Mining, Reclamation, and Surface Impacts of Underground Mining, which will make such data available to the public and the Federal, regional, State, and local agencies conducting or concerned with land use planning and agencies concerned with surface and underground mining and reclamation operations;

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

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of surface coal mining pursuant to section 522;

(11) monitor all Federal and State research programs dealing with coal extraction and use and recommend to Congress the research and demonstration projects and necessary changes in public policy which are designated to (A) improve feasibility of underground coal mining, and (B) improve surface mining and reclamation techniques directed at eliminating adverse environmental and social impacts;

(12) cooperate with other Federal agencies and State regulatory authorities to minimize duplication of inspections, enforcement, and administration of this Act; and

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

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

Sec. 201

(e) [Repealed.]

Note: Subsection 201(e) amended December 11, 1980.

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

(g)(1) After the Secretary has adopted the regulations required by section 501 of this Act, any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of a rule under this Act.

(2) Such petitions shall be filed in the principal office of the Director and shall set forth the facts which it is claimed established that it is necessary to issue, amend, or repeal a rule under this Act.

(3) The Director may hold a public hearing or may conduct such investigation or proceeding as the Director deems appropriate in order to determine whether or not such petition should be granted.

(4) Within ninety days after filing of a petition described in paragraph (1), the Director shall either grant or deny the petition. If the Director grants such petition, the Director shall promptly commence an appropriate proceeding in accordance with the provisions of this Act. If the Director denies such petition, the Director shall so notify the petitioner in writing setting forth the reasons for such denial.

**TITLE III -- STATE MINING AND MINERAL RESOURCES AND
RESEARCH INSTITUTES
[30 U.S.C. 1221]**

**AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES
[98 STAT. 1536]**

[Note: As of 1984, Title III is no longer part of SMCRA but a related Act,
the Mining and Mineral Institute Act of 1984.]

SEC. 301. (a)(1) There are authorized to be appropriated to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") funds adequate to provide for each participating State \$400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute or center (hereafter in this Act referred to as the "institute") at one public college or university in the State which meets the eligibility criteria established in section 310.

(2)(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar.

(B) If there is more than one such eligible college or university in a State, funds appropriated under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be granted to one such college or university designated by the Governor of the State.

(C) Where a State does not have a public college or university eligible under section 310, the Committee on Mining and Mineral Resources Research established in section 309 (hereafter in this Act referred to as the "Committee") may allocate the State's allotment to one private college or university which it determines to be eligible under such section.

(b) It shall be the duty of each institute to plan and conduct, or arrange for a component or components of the college or university with which it is affiliated to conduct research, investigations, demonstrations, and experiments of either, or both, a basic or practical nature in relation to mining and mineral resources, and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. The subject of such research, investigation, demonstration, experiment, and training may include exploration; extraction; processing; development; production of fuel and nonfuel mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal social, engineering, recreational, biological, geographic, ecological, and other aspects of mining, mineral resources, and mineral reclamation. Such research, investigation, demonstration, experiment, and training shall consider the interrelationship with the

Sec. 301

natural environment, the varying conditions and needs to the respective States, and mining and mineral resources research projects being conducted by agencies of the Federal and State governments and other institutes.

Note: Section 301 amended August 29, 1984 and October 12, 1988.

RESEARCH FUNDS TO INSTITUTES

[98 STAT. 1537]

[30 U.S.C. 1222]

SEC. 302. (a) There is authorized to be appropriated to the Secretary not more than \$15,000,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, which shall remain available until expended. Such funds when appropriated shall be made available to an institute or to institutes participating in a generic mineral technology center to meet the necessary expenses for purposes of --

(1) specific mineral research and demonstration projects of broad application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes; and

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which are deemed by the Committee to be desirable and are not otherwise being studied.

(b) Each application for funds under subsection (a) of this section shall state, among other things, the nature of the project to be undertaken; the period during which it will be pursued; the qualifications of the personnel who will direct and conduct it; the estimated costs; the importance of the project to the Nation, region, or State concerned; its relation to other known research projects theretofore pursued or being pursued; the extent to which the proposed project will provide opportunity for the training of mining and mineral engineers and scientists; and the extent of participation by nongovernmental sources in the project.

(c) The Committee shall review all such funding applications and recommend to the Secretary the use of the institutes, insofar as practicable, to perform special research. Recommendations shall be made without regard to the race, religion, or sex of the personnel who will conduct and direct the research, and on the basis of the facilities available in relation to the particular needs of the research project; special geographic, geologic, or climatic conditions within the immediate vicinity of the institute; any other special requirements of the research project; and the extent to which such project will provide an opportunity for training individuals as mineral engineers and scientists. The Committee shall recommend to the Secretary the designation and utilization of such portions of the funds authorized to be appropriated

Sec. 302

by this section as it deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) No funds shall be made available under subsection (a) of this section except for a project approved by the Secretary and all funds shall be made available upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

(e) No funds made available under this section shall be applied to the acquisition by purchase or lease of any land or interests therein, or the rental, purchase, construction, preservation, or repair of any building.

Note: Section 302 amended August 29, 1984 and October 12, 1988.

FUNDING CRITERIA
[98 STAT. 1538]

[30 U.S.C. 1223]

SEC. 303. (a) Funds available to institutes under sections 301 and 302 of this Act shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall --

(1) set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields;

(2) set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this Act, and in no case supplant such funds; and

(3) have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this Act during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

If any of the funds received by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, such funds shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

Sec. 303

(b) The institutes are authorized and encouraged to plan and conduct programs under this Act in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved. Moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

Note: Section 303 amended August 29, 1984.

DUTIES OF THE SECRETARY
[98 STAT. 1538]

[30 U.S.C. 1224]

SEC. 304. (a) The Secretary, acting through the Director of the United States Bureau of Mines, shall administer this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this Act, shall participate in coordinating research initiated under this Act by the institutes, shall indicate to them such lines of inquiry that seem most important, and shall encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) On or before the first day of July in each year beginning after the date of enactment of this Act, the Secretary shall ascertain whether the requirements of section 303(a) have been met as to each institute and State.

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

Note: Section 304 amended August 29, 1984 and October 12, 1988 and May 18, 1992.

Sec. 305

AUTONOMY
[98 STAT.1539]

[30 U.S.C. 1225]

SEC. 305. Nothing in this Act shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education at any college or university.

Note: Section 305 amended August 29, 1984.

MISCELLANEOUS PROVISIONS
[98 STAT. 1539]

[30 U.S.C. 1201]

SEC. 306. (a) The Secretary shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources, of State and local governments, and of private institutions and individuals to assure that the programs authorized by this Act will supplement and not be redundant with respect to established mining and minerals research programs, and to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and minerals research, with due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this Act, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this Act is intended to give or shall be construed as giving the Secretary any authority over mining and mineral resources research conducted by any agency of the Federal Government, or as repealing or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with regard to mining and mineral resources.

(c) No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act, unless all uses, products, processes, patents, and other developments resulting therefrom, with such exception or limitation, if any, as the Secretary may find necessary in the public interest, are made available promptly to the general public. Patentable inventions shall be governed by the provisions of Public Law 96-517. Nothing contained in this section shall deprive

Sec. 306

the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

(d)(1) There is authorized to be appropriated to the Secretary \$450,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to administer this Act. No funds may be withheld by the Secretary for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.

(2) There are authorized to be appropriated to the Secretary such sums as are necessary for the printing and publishing of the results of activities carried out by institutes and generic mineral technology centers under this Act, but such appropriations shall not exceed \$550,000 in any single fiscal year.

Note: Section 306 amended August 29, 1984 and October 12, 1988.

CENTER FOR CATALOGING
[98 STAT. 1540]

[30 U.S.C. 1227]

SEC. 307. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as may make such information available.

Note: Section 307 amended August 29, 1984.

INTERAGENCY COOPERATION
[98 STAT. 1540]

[30 U.S.C. 1228]

SEC. 308. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include --

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

Sec. 308

- (2) identification and elimination of duplication and overlap between agency programs;
- (3) identification of technical needs in various mining and mineral resources research categories;
- (4) recommendations with respect to allocation of technical effort among Federal agencies;
- (5) review of technical manpower needs, and findings concerning management policies to improve the quality of the Government-wide research effort; and
- (6) actions to facilitate interagency communication at management levels.

Note: Section 308 amended August 29, 1984.

COMMITTEE
[98 STAT. 1540]

[30 U.S.C. 1229]

SEC. 309. (a) The Secretary shall appoint a Committee on Mining and Mineral Resources Research composed of --

- (1) the Assistant Secretary of the Interior responsible for minerals and mining research, or his delegate;
- (2) the Director, United States Bureau of Mines, or his delegate;
- (3) the Director, United States Geological Survey, or his delegate;
- (4) the Director of the National Science Foundation, or his delegate;
- (5) the President, National Academy of Sciences, or his delegate;
- (6) the President, National Academy of Engineering, or his delegate; and
- (7) not more than 7 other persons who are knowledgeable in the fields of mining and mineral resources research, including two university administrators involved in the conduct of programs authorized by this Act, 3 representatives from the mining industry, a working miner, and a representative from the conservation community. In making these 7 appointments, the Secretary shall consult with interested groups.

(b) The Committee shall consult with, and make recommendations to, the Secretary on all matters relating to mining and mineral resources research and the determinations that are required to be made under this Act. The Secretary shall consult with, and consider recommendations of, such Committee in such matters.

(c) Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including travel time) during which they are performing Committee business, paid at a rate fixed by the Secretary but not excess of the daily equivalent of the maximum rate of pay for grade GS-18 of the

Sec. 309

General Schedule under section 5332 of title 5 of the United States Code, and shall be fully reimbursed for travel, subsistence, and related expenses.

(d) The Committee shall be jointly chaired by the Assistant Secretary of the Interior responsible for minerals and mining and a person to be elected by the Committee from among the members referred to in paragraphs (5), (6), and (7) of subsection (a) of this section.

(e) The Committee shall develop a national plan for research in mining and mineral resources, considering ongoing efforts in the universities, the Federal Government, and the private sector, and shall formulate and recommend a program to implement the plan utilizing resources provided for under this Act. The Committee shall submit such plan to the Secretary, the President, and the Congress on or before March 1, 1986, and shall submit an annual update of such plan by January 15 of each calendar year.

(f) Section 10 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

Note: Section 309 amended August 29, 1984 and October 12, 1988 and May 18, 1992.

ELIGIBILITY CRITERIA

[98 STAT. 1541]

[30 U.S.C. 1230]

SEC. 310. (a) The Committee shall determine the eligibility of a college or university to participate as a mining and mineral resources research institute under this Act using criteria which include --

(1) the presence of a substantial program of graduate instruction and research in mining or mineral extraction or closely related fields which has a demonstrated history of achievement;

(2) evidence of institutional commitment for the purposes of this Act; and

(3) evidence that such institution has or can obtain significant industrial cooperation in activities within the scope of this Act; and

(4) the presence of an engineering program in mining or minerals extraction that is accredited by the Accreditation Board for Engineering and Technology, or evidence of equivalent institutional capability as determined by the Committee.

(b)(1) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of the Mining and Mineral Resources Research Institute Amendments of 1988, have a mining or mineral resources research institute program which has been found to be eligible pursuant to this Act shall continue to be eligible subject to review at least once during the period authorized by

Sec. 310

the Mining and Mineral Resources Research Institute Amendments of 1988, under the provisions of subsection (a). The results of such review shall be submitted by January 15, 1992, pursuant to section 11(a)(2) of the Mining and Mineral Resources Research Institute Amendments of 1988.

(2) Generic mineral technology centers established by the Secretary under this Act are to be composed of institutes eligible pursuant to subsection (a). Existing generic mineral technology centers shall continue to be eligible under this Act subject to at least one review prior to January 15, 1992, pursuant to section 11(a)(3) of the Mining and Mineral Resources Research Institute Amendments of 1988.

Note: Section 310 added August 29, 1984 and October 12, 1988.

STRATEGIC RESOURCES GENERIC MINERAL TECHNOLOGY CENTER
[104 Stat. 1207]

[30 U.S.C. 1230a]

(a) The Secretary of the Interior is authorized and directed to establish a Strategic Resources Mineral Technology Center (hereinafter referred to as the "center") for the purpose of improving existing, and developing new, technologies that will decrease the dependence of the United States on supplies of strategic and critical minerals.

(b) The center shall --

(1) provide for studies and technology development in the areas of mineral extraction and refining processes, product substitution and conservation of mineral resources through recycling and advanced processing and fabrication methods;

(2) identify new deposits of strategic and critical mineral resources; and

(3) facilitate the transfer of information, studies, and technologies developed by the center to the private sector.

(c) The Secretary shall establish the center referred to in subsection (a) of this section at a university that --

(1) does not currently host a generic mineral technology center;

(2) has established advanced degree programs in geology and geological engineering, and metallurgical and mining engineering;

(3) has expertise in materials and advanced processing research; and

(4) is located west of the 100th meridian.

(d) There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IV -- ABANDONED MINE RECLAMATION

**ABANDONED MINE RECLAMATION FUND AND PURPOSES
[30 U.S.C. 1231]**

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund") which shall be administered by the Secretary of the Interior. State abandoned mine reclamation funds (State funds) generated by grants from this title shall be established by each State pursuant to an approved State program.

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

(1) the reclamation fees levied under section 402;

Note: Subsection 401(b)(1) amended November 5, 1990.

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

(3) donations by persons, corporations, associations, and foundations for the purposes of this title;

Note: Subsection 401(b)(3) amended November 5, 1990.

(4) recovered moneys as provided for in this title; and

Note: Subsection 401(b)(4) amended November 5, 1990.

(5) interest credited to the fund under subsection (e).

Note: Subsection 401(b)(5) amended November 5, 1990.

(c) Moneys in the fund may be used for the following purposes:

(1) reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning

Sec. 401

coal refuse disposal areas and burning coal in situ; prevention, abatement, and control of coal mine subsidence; and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act: Provided, That funds used for this purpose shall not exceed \$3,000,000 of the funds made available to any State under section 402(g)(1) of this Act;

Note: Subsection 401(c)(1) amended October 12, 1984 and November 5, 1990.

(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;

Note: Subsection 401(c)(2) amended November 5, 1990.

(3) acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 409;

(4) acquisition of land as provided for in this title;

(5) enforcement and collection of the reclamation fee provided for in section 402 of this title;

(6) studies, research, and demonstration projects by the Department of the Interior to such extent or in such amounts as are provided in appropriation Acts with public and private organizations, conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986 conducted for the purposes of this title;

Note: Subsection 401(c)(6) amended November 5, 1990 and October 24, 1992.

(7) restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining which constitutes an emergency as provided for in this title;

(8) grants to the States to accomplish the purposes of this title;

(9) administrative expenses of the United States and each State to accomplish the purposes of this title;

Note: Subsection 401(c)(9) amended November 5, 1990.

(10) for use under section 411;

Note: Subsection 401 (c)(10) amended November 5, 1990.

(11) for the purpose of section 507(c), except that not more than \$10,000,000 shall annually be available for such purpose;

Sec. 401

Note: Subsection 401 (c)(11) amended November 5, 1990 and October 24, 1992.

(12) for the purpose described in section 402(h); and

Note: Subsection 401(c)(12) amended November 5, 1990 and October 24, 1992.

(13) all other necessary expenses to accomplish the purposes of this title.

Note: Subsection 401(c)(13) renumbered from (12) October 24, 1992.

(d) Moneys from the fund shall be available for the purposes of this title, only when appropriated therefor, and such appropriations shall be made without fiscal year limitations.

(e) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his judgement, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.

Note: Subsection 401(e) added November 5, 1990.

RECLAMATION FEE

[30 U.S.C. 1232]

SEC. 402. (a) All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 per centum of the value of the coal at the mine, or 10 cents per ton, whichever is less.

(b) Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after the date of enactment of this Act, and ending September 30, 2004, after which time the fee shall be

Sec. 402

established at a rate to continue to provide for the deposit referred to in subsection (h).

Note: Subsection 402(b) amended November 5, 1990 and October 24, 1992.

(c) Together with such reclamation fee, all operators of coal mine operations shall submit a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal, the accuracy of which shall be sworn to by the operator and notarized. Such statement shall include an identification of the permittee of the surface coal mining operation, any operator in addition to the permittee, the owner of the coal, the preparation plant, tipples, or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 506 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.

Note: Subsection 402(c) amended November 5, 1990.

(d)(1) Any person, corporate officer, agent or director, on behalf of a coal mine operator, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

(2) The Secretary shall conduct such audits of coal production and the payment of fees under this title as may be necessary to ensure full compliance with the provisions of this title. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at the reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this title. The Secretary may at any time conduct audits of any surface coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this title.

Note: Subsection 402(d)(2) amended November 5, 1990.

(e) Any portion of the reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from coal mine operators, in any court of competent jurisdiction in any action at law to compel payment of debts.

(f) All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary believes that any

Sec. 402

person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.

Note: Subsection 402(f) amended November 5, 1990.

(g) (1) Except as provided in subsection (h), moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this title as follows:

(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following:

(i) An approved abandoned mine reclamation program pursuant to section 405.

(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following:

(i) an approved abandoned mine reclamation program pursuant to section 405.

(ii) Lands and waters which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

(2) 20 percent of the amounts available in the fund in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(D)), shall be allocated to the Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraphs (2) and (5) are authorized to be expended by the Secretary for any of the following:

(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

(B) For the purpose of section 410 (relating to emergencies).

(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands and waters pursuant to section 404 in States and on

Sec. 402

Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

(D) For the administration of this title by the Secretary.

(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which are mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

(i) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for a State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

(ii) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date of enactment of this paragraph, and that the surety of such mining operator became insolvent during such period, and as of the date of enactment of this paragraph, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph

Sec. 402

within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either-

(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after September 30, 1995, or

(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

(B) The plan shall include, but shall not be limited to, each of the following:

(i) An identification of the qualified hydrologic unit.
(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit.

(v) The cost of undertaking the proposed abatement and treatment measures.

Sec. 402

(vi) An identification of existing and proposed sources of funding for such measures.

(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the United States Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

(D) For purposes of this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit-

(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

(ii) which contains lands and waters which are-

(I) eligible pursuant to section 404 and include any of the priorities stated in paragraph (1), (2), or (3) of section 403(a); and

(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

(8) Of the funds available for expenditure under this subsection in any fiscal year, the Secretary shall allocate annually not less than \$2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and eligible lands and waters pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).

Note: Subsection 402(g) amended September 13, 1982, May 7, 1987 and November 5, 1990 and May 18, 1992 and October 24, 1992.

(h)(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of --

(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

Sec. 402

(B) the amount by which the amount described in subparagraph (A) is less than \$70,000,000.

(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year.

Note: Subsection 402(h) added October 24, 1992.

OBJECTIVES OF FUND
[30 U.S.C. 1233]

SEC. 403. (a) Expenditure of moneys from the fund on lands and water eligible pursuant to section 404 for the purposes of this title, except as provided for under section 411, shall reflect the following priorities in the order stated:

Note: Subsection 403(a) amended November 5, 1990 and October 24, 1992.

(1) the protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) the protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;

(4) the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices; and

(5) the development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this title for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

(b)(1) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the

Sec. 403

purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

(2) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B) section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (1) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B).

Note: Subsection 403(b) added November 5, 1990 and amended October 24, 1992.

(c) For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this title shall be so noted on the inventory under standardized procedures established by the Secretary.

Note: Subsection 403(c) added November 5, 1990.

ELIGIBLE LANDS AND WATER
[30 U.S.C. 1234]

SEC. 404. Lands and water eligible for reclamation or drainage abatement expenditures under this title are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes, except as provided for under section 411 and abandoned or left in an inadequate reclamation status prior to the date of enactment of this Act, and for which there is no continuing reclamation responsibility under State or other Federal laws.

Sec. 404

For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(1), and section 409. Surface coal mining operations on lands eligible for re-mining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for re-mining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.

Note: Section 404 amended November 5, 1990 and October 24, 1992.

STATE RECLAMATION PROGRAMS
[30 U.S.C. 1235]

SEC. 405. (a) Not later than the end of the one hundred and eighty day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of title IV and establishing procedures and requirements for preparation, submission, and approval of State programs consisting of the plan and annual submissions of projects.

Note: Subsection 405(a) amended November 5, 1990.

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

(c) The Secretary shall not approve, fund, or continue to fund a State abandoned mine reclamation program unless that State has an approved State regulatory program pursuant to section 503 of this Act.

(d) If the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of this title, sections 402 and 410 excepted, the Secretary shall approve such State program and shall grant to the State exclusive responsibility and authority to implement the provisions of the approved program: Provided, That the Secretary shall withdraw such approval and authorization if he determines upon the basis of information provided under this section that the State program is not in compliance with the procedures, guidelines, and requirements established under subsection 405(a).

Sec. 405

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

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

- (1) a general description of each proposed project;
- (2) a priority evaluation of each proposed project;
- (3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;
- (4) an estimate of the cost for each proposed project;
- (5) in the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained;
- (6) an identification of lands or interest therein to be acquired and the estimated cost; and
- (7) in each year after the first in which a plan is filed under this title, an inventory of each project funded under the previous year's grant: which inventory shall include details of financial expenditures on such project together with a brief description of each such project, including project locations, landowner's name, acreage, type of reclamation performed.

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

(h) Upon approval of State Reclamation Plan by the Secretary and of the surface mine regulatory program pursuant to section 503, the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to subsection 402(g) and which are necessary to implement the State reclamation program as approved by the Secretary.

Note: Subsection 405(h) amended November 5, 1990.

(i) The Secretary, through his designated agents, will monitor the progress and quality of the program. The States shall not be required at the start of any project to submit complete copies of plans and specifications.

(j) The Secretary shall require annual and other reports as may be necessary to be submitted by each State administering the approved State reclamation program with

Sec. 405

funds provided under this title. Such reports shall include that information which the Secretary deems necessary to fulfill his responsibilities under this title.

(k) Indian tribes having within their jurisdiction eligible lands pursuant to section 404 or from which coal is produced, shall be considered as a "State" for the purposes of this title except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes.

Note: Subsection 405(k) amended July 11, 1987.

(l) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

Note: Subsection 405(l) added November 5, 1990.

RECLAMATION OF RURAL LANDS
[30 U.S.C. 1236]

SEC. 406. (a) In order to provide for the control and prevention of erosion and sediment damages from unreclaimed mined lands, and to promote the conservation and development of soil and water resources of unreclaimed mined lands and lands affected by mining, the Secretary of Agriculture is authorized to enter into agreements of not more than ten years with landowners (including owners of water rights), residents, and tenants, and individually or collectively, determined by him to have control for the period of the agreement of lands in question therein, providing for land stabilization, erosion, and sediment control, and reclamation through conservation treatment, including measures for the conservation and development of soil, water (excluding stream channelization), woodland, wildlife, and recreation resources, and agricultural productivity of such lands. Such agreements shall be made by the Secretary with the owners, including owners of water rights, residents, or tenants (collectively or individually) of the lands in question.

Note: Subsection 406(a) amended November 5, 1990.

(b) The landowner, including the owner of water rights, resident, or tenant shall furnish to the Secretary of Agriculture a conservation and development plan setting forth the proposed land uses and conservation treatment which shall be mutually agreed by the Secretary of Agriculture and the landowner, including owner of water

Sec. 406

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

(c) Such plan shall be incorporated in an agreement under which the landowner, including owner of water rights, resident, or tenant shall agree with the Secretary of Agriculture to effect the land uses and conservation treatment provided for in such plan on the lands described in the agreement in accordance with the terms and conditions thereof.

(d) In return for such agreement by the landowner, including owner of water rights, resident, or tenant, the Secretary of Agriculture is authorized to furnish financial and other assistance to such landowner, including owner of water rights, resident, or tenant, in such amounts and subject to such conditions as the Secretary of Agriculture determines are appropriate in the public interest for carrying out the land use and conservation treatment set forth in the agreement. Grants made under this section, depending on the income-producing potential of the land after reclaiming, shall provide up to 80 per centum of the cost of carrying out such land uses and conservation treatment on not more than one hundred and twenty acres of land occupied by such owner, including water rights owners, residents, or tenant, or on not more than one hundred and twenty acres of land which has been purchased jointly by such landowners, including water rights owners, residents, or tenants, under an agreement for the enhancement of water quality or quantity or on land which has been acquired by an appropriate State or local agency for the purpose of implementing such agreement; except the Secretary may reduce the matching cost share where he determines that (1) the main benefits to be derived from the project are related to improving offsite water quality, offsite esthetic values, or other offsite benefits, and (2) the matching share requirement would place a burden on the landowner which would probably prevent him from participating in the program: Provided, however, That the Secretary of Agriculture may allow for land use and conservation treatment on such lands occupied by any such owner in excess of such one hundred and twenty acre limitation up to three hundred and twenty acres, but in such event the amount of the grant to such landowner to carry out such reclamation on such lands shall be reduced proportionately. Notwithstanding any other provision of this section with regard to acreage limitations, the Secretary of Agriculture may carry out reclamation treatment projects to control erosion and improve water quality on all lands within a hydrologic unit, consisting of not more than 25,000 acres, if the Secretary determines that treatment of such lands as a hydrologic unit will achieve greater reduction in the adverse effects of past surface mining practices than would be achieved if reclamation was done on individual parcels of land.

Sec. 406

Note: Subsection 406(d) amended December 22, 1981 and November 5, 1990.

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

(f) Notwithstanding any other provision of law, the Secretary of Agriculture, to the extent he deems it desirable to carry out the purposes of this section, may provide in any agreement hereinunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

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

Note: Subsection 406(i) repealed November 5, 1990.

**ACQUISITION AND RECLAMATION OF LAND ADVERSELY
AFFECTED BY PAST COAL MINING PRACTICES**

[30 U.S.C. 1237]

SEC. 407. (a) If the Secretary or the State pursuant to an approved State program, makes a finding of fact that -

(1) land or water resources have been adversely affected by past coal mining practices; and

(2) the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily available; or

(4) the owners will not give permission for the United States, the States, political subdivisions, their agents, employees, or contractors to enter upon such

Sec. 407

property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices;
then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, the Secretary, his agents, employees, or contractors, or the State pursuant to an approved State program, shall have the right to enter upon the property adversely affected by past coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: Provided, however, That this provision is not intended to create new rights of action or eliminate existing immunities.

Note: Subsection 407(a) amended November 5, 1990.

(b) The Secretary, his agents, employees, or contractors or the State pursuant to an approved State program, shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor trespass thereon.

(c) The Secretary or the State pursuant to an approved State program, may acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the Secretary determines that acquisition of such land is necessary to successful reclamation and that-

(1) the acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open space benefits; and

(2) permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

(3) acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this title or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

Sec. 407

(d) Title to all lands acquired pursuant to this section shall be in the name of the United States or, if acquired by a State pursuant to an approved program, title shall be in the name of the State. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(e) States are encouraged as part of their approved State programs, to reclaim abandoned and unreclaimed mined lands within their boundaries and, if necessary, to acquire or to transfer such lands to the Secretary or the appropriate State regulatory authority under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price. Notwithstanding the provisions of paragraph (1) of subsection (c), reclaimed land may be sold to the State or local government in which it is located at a price less than fair market value, which in no case shall be less than the cost to the United States of the purchase and reclamation of the land, as negotiated by the Secretary, to be used for a valid public purpose. If any land sold to a State or local government under this paragraph is not used for a valid public purpose as specified by the Secretary in the terms of the sales agreement then all right, title, and interest in such land shall revert to the United States. Money received from such sale shall be deposited in the fund.

Note: Subsection 407(e) amended November 5, 1990.

(f) The Secretary, in formulating regulations for making grants to the States to acquire land pursuant to this section, shall specify that acquired land meet the criteria provided for in subsections (c) and (d) of this section. The Secretary may provide by regulation that money derived from the lease, rental, or user charges of such acquired land and facilities thereon will be deposited in the fund.

(g)(1) Where land acquired pursuant to this section is deemed to be suitable for industrial, commercial, residential, or recreational development, the Secretary may sell or authorize the States to sell such land by public sale under a system of competitive bidding, at not less than fair market value and under such other regulations promulgated to insure that such lands are put to proper use consistent with local and State land use plans, if any, as determined by the Secretary.

(2) The Secretary or the State pursuant to an approved State program, when requested after appropriate public notice shall hold a public hearing, with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired pursuant to this section are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands

Sec. 407

after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

Note: Subsection 407(g)(2) amended November 5, 1990.

(h) In addition to the authority to acquire land under subsection (d) of this section the Secretary is authorized to use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to any State or to a political subdivision thereof, or to any person, firm, association, or corporation, if he determines that such is an integral and necessary element of an economically feasible plan for the project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as provided in section 410 or persons dislocated as the result of natural disasters or catastrophic failures from any cause. Such activities shall be accomplished under such terms and conditions as the Secretary shall require, which may include transfers of land with or without monetary consideration: Provided, That, to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such persons, firm, association, or corporation. No part of the funds provided under this title may be used to pay the actual construction costs of housing. The Secretary may carry out the purposes of this subsection directly or he may make grants and commitments for grants, and may advance money under such terms and conditions as he may require to any State, or any department, agency, or instrumentality of a State, or any public body or nonprofit organization designated by a State.

LIENS
[30 U.S.C. 1238]

SEC. 408. (a) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the Secretary or the State, pursuant to an approved State program, shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the said land. The lien shall not

Sec. 408

exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.

(b) The landowner may proceed as provided by local law to petition within sixty days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. Any party aggrieved by the decision may appeal as provided by local law.

(c) The lien provided in this section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land.

FILLING VOIDS AND SEALING TUNNELS
[30 U.S.C. 1239]

SEC. 409. (a) The Congress declares that voids, and open and abandoned tunnels, shafts, and entryways resulting from any previous mining operation, constitute a hazard to the public health or safety and that surface impacts of any underground or surface mining operation may degrade the environment. The Secretary, at the request of the Governor of any State, or the governing body of an Indian tribe, is authorized to fill such voids, seal such abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or surface mines which the Secretary determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment. State regulatory authorities are authorized to carry out such work pursuant to an approved abandoned mine reclamation program.

Note: Subsection 409(a) amended November 5, 1990.

Sec. 409

(b) Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be allocated to the respective States or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g).

Note: Subsection 409(b) amended November 5, 1990.

(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

(2) The provisions of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).

Note: Subsection 409(c) amended November 5, 1990.

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

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

EMERGENCY POWERS
[30 U.S.C. 1240]

SEC. 410. (a) The Secretary is authorized to expend moneys from the fund for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices, on eligible lands, if the Secretary makes a finding of fact that -

(1) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(2) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(b) The Secretary, his agents, employees, and contractors shall have the right to enter upon any land where the emergency exists and any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare. Such entry shall be construed as

Sec. 410

an exercise of the police power and shall not be construed as an act of condemnation of property nor of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: Provided, however, That this provision is not intended to create new rights of action or eliminate existing immunities.

CERTIFICATION
[30 U.S.C. 1240(a)]

SEC. 411. (a) The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 may certify to the Secretary that all of the priorities stated in section 403(a) for eligible lands and waters pursuant to section 404 have been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

(b) If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands and waters for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those-

(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

(2) for which there is no continuing reclamation responsibility under State or other Federal laws. In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

(c) Expenditures of moneys for lands, waters, and facilities referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

(2) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

(d) Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which

Sec. 411

have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

(e) Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (c).

(f) Notwithstanding subsection (e), where the Secretary has concurred in the certification referenced in subsection (a) and where the Governor of a State or the head of a governing body of an Indian tribe determines there is a need for activities or construction of specific public facilities related to the coal or minerals industry in States impacted by coal or minerals development and the Secretary concurs in such need, then the State or Indian tribe, as the case may be, may use annual grants made available under section 402(g)(1) to carry out such activities or construction.

(g) The provisions of sections 407 and 408 shall apply to subsections (a) through (e) of this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply.

Note: New section 411 added November 5, 1990.

FUND REPORT
[30 U.S.C. 1241]

SEC. 412. Not later than January 1, 1978, and annually thereafter, the Secretary or the State pursuant to an approved State program, shall report to the Congress on operations under the fund together with his recommendations as to future uses of the fund.

Note: Section 412, **Fund Report** renumbered from Section 411.

MISCELLANEOUS POWERS
[30 U.S.C. 1242]

SEC. 413. (a) The Secretary or the State pursuant to an approved State program, shall have the power and authority, if not granted it otherwise, to engage in any work and to do all things necessary or expedient, including

Sec. 413

promulgation of rules and regulations, to implement and administer the provisions of this title.

(b) The Secretary or the State pursuant to an approved State program, shall have the power and authority to engage in cooperative projects under this title with any other agency of the United States of America, any State and their governmental agencies.

(c) The Secretary or the State pursuant to an approved State program, may request the Attorney General, who is hereby authorized to initiate, in addition to any other remedies provided for in this title, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this title.

(d) The Secretary or the State pursuant to an approved State program, shall have the power and authority to construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water: Provided, That the above provisions of this paragraph shall not be deemed in any way to repeal or supersede any portion of the Federal Water Pollution Control Act (33 U.S.C.A. 1151, et seq. as amended) and no control or treatment under this subsection shall in any way be less than that required under the Federal Water Pollution Control Act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

(e) The Secretary may transfer funds to other appropriate Federal agencies, in order to carry out the reclamation activities authorized by this title.

Note: Section 413, **Miscellaneous Powers** renumbered from Section 412.

INTERAGENCY COOPERATION

[30 U.S.C. 1243]

SEC. 414. All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this title.

Note: Section 414, **Interagency Cooperation** renumbered from Section 413.

**TITLE V – CONTROL OF THE ENVIRONMENTAL IMPACTS OF
SURFACE COAL MINING**

**ENVIRONMENTAL PROTECTION STANDARDS
[30 U.S.C. 1251]**

SEC. 501. (a) Not later than the end of the ninety-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering an interim regulatory procedure for surface coal mining and reclamation operations setting mining and reclamation performance standards based on and incorporating the provisions set out in section 502(c) of this Act. The issuance of the interim regulations shall be deemed not to be a major Federal action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Such regulations, which shall be concise and written in plain, understandable language shall not be promulgated and published by the Secretary until he has -

(A) published proposed regulations in the Federal Register and afforded interested persons and State and local governments a period of not less than thirty days after such publication to submit written comments thereon;

(B) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those regulations promulgated under this section which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175); and the Clean Air Act, as amended (42 U.S.C. 1857 et seq.); and

(C) held at least one public hearing on the proposed regulations. The date, time, and place of any hearing held on the proposed regulations shall be set out in the publication of the proposed regulations. The Secretary shall consider all comments and relevant data presented at such hearing before final promulgation and publication of the regulations.

(b) Not later than one year after the enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards based on and conforming to the provisions of title V and establishing procedures and requirements for preparation, submission, and approval of State programs; and development and implementation of Federal programs under the title. The Secretary shall promulgate these regulations, which shall be concise and written in plain, understandable language in accordance with the procedures in section 501(a).

**ABANDONED COAL REFUSE SITES
[30 U.S.C. 1251a]**

Sec. 501

(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards and separate permit systems, devised pursuant to this subsection.

INITIAL REGULATORY PROCEDURES

[30 U.S.C. 1252]

SEC. 502. (a) No person shall open or develop any new or previously mined or abandoned site for surface coal mining operations on lands on which such operations are regulated by a State unless such person has obtained a permit from the State's regulatory authority.

(b) All surface coal mining operations on lands on which such operations are regulated by a State which commence operations pursuant to a permit issued on or after six months from the date of enactment of this Act shall comply, and such permits shall contain terms requiring compliance with, the provisions set out in

Sec. 502

subsection (c) of this section. Prior to final disapproval of a State program or prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, a State may issue such permits.

(c) On and after nine months from the date of enactment of this Act, all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the provisions of subsections 515(b)(2), 515(b)(3), 515(b)(5), 515(b)(10), 515(b)(13), 515(b)(15), 515(b)(19), and 515(d) of this Act or, where a surface coal mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, such operation shall comply with the requirements of section 515(c) (4) and (5) without regard to the requirements of section 515(b)(3) or 515(d) (2) and (3), with respect to lands from which overburden and the coal seam being mined have not been removed: Provided, however, That surface coal mining operations in operation pursuant to a permit issued by a State before the date of enactment of this Act, issued to a person as defined in section 701(19) in existence prior to May 2, 1977 and operated by a person whose total annual production of coal from surface and underground coal mining operations does not exceed one hundred thousand tons shall not be subject to the provisions of this subsection except with reference to the provision of subsection 515(d)(1) until January 1, 1979.

(d) Not later than two months following the approval of a State program pursuant to section 503 or the implementation of a Federal program pursuant to section 504, regardless of litigation contesting that approval or implementation, all operators of surface coal mines in expectation of operating such mines after the expiration of eight months from the approval of a State program or the implementation of a Federal program, shall file an application for a permit with the regulatory authority. Such application shall cover those lands to be mined after the expiration of eight months from the approval of a State program or the implementation of a Federal program. The regulatory authority shall process such applications and grant or deny a permit within eight months after the date of approval of the State program or the implementation of the Federal program, unless specially enjoined by a court of competent jurisdiction, but in no case later than forty-two months from the date of enactment of this Act.

(e) Within six months after the date of enactment of this Act, the Secretary shall implement a Federal enforcement program which shall remain in effect in each State as surface coal mining operations are required to comply with the provisions of this Act, until the State program has been approved pursuant to this Act or until a Federal program has been implemented pursuant to this Act. The enforcement program shall -

(1) include inspections of surface coal mine sites which may be made (but at least one inspection for every site every six months), without advance notice to the mine operator and for the purpose of ascertaining compliance with the standards of subsections (b) and (c) above. The Secretary shall order any necessary enforcement

Sec. 502

action to be implemented pursuant to the Federal enforcement provision of this title to correct violations identified at the inspections;

(2) provide that upon receipt of inspection reports indicating that any surface coal mining operation has been found in violation of subsections (b) and (c) above, during not less than two consecutive State inspections or upon receipt by the Secretary of information which would give rise to reasonable belief that such standards are being violated by any surface coal mining operation, the Secretary shall order the immediate inspection of such operation by Federal inspectors and the necessary enforcement actions, if any, to be implemented pursuant to the Federal enforcement provisions of this title. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection;

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

(4) provide that moneys authorized by section 712 shall be available to the Secretary prior to the approval of a State program pursuant to this Act to reimburse the State for conducting those inspections in which the standards of this Act are enforced and for the administration of this section;

(5) for purposes of this section, the term "Federal inspector" means personnel of the Office of Surface Mining Reclamation and Enforcement and such additional personnel of the United States Geological Survey, Bureau of Land Management, or of the Mining Enforcement and Safety Administration so designated by the Secretary, or such other personnel of the Forest Service, Soil Conservation Service, or the Agricultural Stabilization and Conservation Service as arranged by appropriate agreement with the Secretary on a reimbursable or other basis.

(f) Following the final disapproval of a State program, and prior to promulgation of a Federal program or a Federal lands program pursuant to this Act, including judicial review of such a program, existing surface coal mining operations may continue surface mining operations pursuant to the provisions of section 502 of this Act. During such period no new permits shall be issued by the State whose program has been disapproved. Permits which lapse during such period may continue in full force and effect until promulgation of a Federal program or a Federal lands program.

STATE PROGRAMS [30 U.S.C. 1253]

SEC. 503. (a) Each state in which there are or may be conducted surface coal mining operations on non-Federal lands, and which wishes to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations, except as provided in sections 521 and 523 and title IV of this Act, shall

Sec. 503

submit to the Secretary, by the end of the eighteenth-month period beginning on the date of enactment of this Act, a State program which demonstrates that such State has the capability of carrying out the provisions of this Act and meeting its purposes through -

(1) a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning surface coal mining and reclamation operations, which sanctions shall meet the minimum requirements of this Act, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of this Act;

(4) a State law which provides for the effective implementations, maintenance, and enforcement of a permit system, meeting the requirements of this title for the regulations of surface coal mining and reclamation operations for coal on lands within the State;

(5) establishment of a process for the designation of areas as unsuitable for surface coal mining in accordance with section 522 provided that the designation of Federal lands unsuitable for mining shall be performed exclusively by the Secretary after consultation with the State; and

(6) establishment for the purposes of avoiding duplication, of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with any other Federal or State permit process applicable to the proposed operations; and

(7) rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.

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

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

(2) obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175), and the Clean Air Act, as amended (42 U.S.C. 1857 et seq.);

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

Sec. 503

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

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

(c) If the Secretary disapproves any proposed State program in whole or in part, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State program or portion thereof. The Secretary shall approve or disapprove the resubmitted State program or portion thereof within sixty days from the date of resubmission.

(d) For the purposes of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of sections 503 and 504 shall again be fully applicable.

FEDERAL PROGRAMS

[30 U.S.C. 1254]

SEC. 504. (a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement a Federal program for a State no later than thirty-four months after the date of enactment of this Act if such State --

(1) fails to submit a State program covering surface coal mining and reclamation operations by the end of the eighteen month period beginning on the date of enactment of this Act;

(2) fails to resubmit an acceptable State program within sixty days of disapproval of a proposed State program: Provided, That the Secretary shall not implement a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided for in clause (1) of this subsection; or

(3) fails to implement, enforce, or maintain its approved State program as provided for in this Act.

If State compliance with clause (1) of this subsection requires an act of the State legislature, the Secretary may extend the period of submission of a State program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface coal mining and reclamation operations taking place on lands within any State not in

Sec. 504

compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. If a Federal program is implemented for a State, section 522(a), (c), and (d) shall not apply for a period of one year following the date of such implementation. In promulgating and implementing a Federal program for a particular State the Secretary shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions.

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

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

(d) Permits issued pursuant to a previously approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines any permit to have been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him an opportunity for hearing and a reasonable opportunity for submission of a new application and reasonable time, within a time limit prescribed in regulations promulgated pursuant to section 501(b), to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(e) A State which has failed to obtain the approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation. Upon the submission of such a program, the Secretary shall follow the procedures set forth in section 503(b) and shall approve or disapprove the State program within six months after its submittal. Approval of a State program shall be based on the determination that the State has the capability of carrying out the provisions of this Act and meeting its purposes through the criteria set forth in section 503(a)(1) through (6). Until a State program is approved as provided under this section, the Federal program shall remain in effect and all actions taken by the Secretary pursuant to such Federal program, including the terms and conditions of any permit issued thereunder shall remain in effect.

(f) Permits issued pursuant to the Federal program shall be valid under any superseding State program: Provided, That the Federal permittee shall have the right to apply for a State permit to supersede his Federal permit. The State regulatory authority may review such permits to determine that the requirements of this Act and the approved State program are not violated. Should the State program contain additional requirements not contained in the Federal program, the permittee will be provided opportunity for hearing and a reasonable time, within a time limit prescribed

Sec. 504

in regulations promulgated pursuant to section 501, to conform ongoing surface mining and reclamation operations to the additional State requirements.

(g) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface mining and reclamation operations subject to this Act shall, insofar as they interfere with the achievement of the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program. The Secretary shall set forth any State law or regulation which is preempted and superseded by the Federal program.

(h) Any Federal program shall include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation.

**STATE LAWS
[30 U.S.C. 1255]**

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

(b) Any provision of any State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operation than do the provisions of this Act or any regulation issued pursuant thereto shall not be construed to be inconsistent with this Act. The Secretary shall set forth any State law or regulation which is construed to be inconsistent with this Act. Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act.

**PERMITS
[30 U.S.C. 1256]**

SEC. 506. (a) No later than eight months from the date on which a State program is approved by the Secretary, pursuant to section 503 of this Act, or no later than eight months from the date on which the Secretary has promulgated a Federal program for a State not having a State program pursuant to section 504 of this Act, no person shall engage in or carry out on lands within a State any surface coal

Sec. 506

mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 502 of this Act, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this Act, but the initial administrative decision has not been rendered.

(b) All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years: Provided, That if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the regulatory authority may grant a permit for such longer term. A successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

(c) A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years of the issuance of the permit: Provided, That the regulatory authority may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee: Provided further, That in the case of a coal lease issued under the Federal Mineral Leasing Act, as amended, extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act: Provided further, That with respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(d)(1) Any valid permit issued pursuant to this Act shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to fulfillment of the public notice requirements of sections 513 and 514 unless it is established that and written findings by the regulatory authority are made that -

(A) the terms and conditions of the existing permit are not being satisfactorily met;

(B) the present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this Act and the approved State plan or Federal program pursuant to this Act; or

(C) the renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

Sec. 506

(D) the operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 509; or

(E) any additional revised or updated information required by the regulatory authority has not been provided. Prior to the approval of any renewal of permit the regulatory authority shall provide notice to the appropriate public authorities.

(2) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this Act: Provided, however, That if the surface coal mining operations authorized by a permit issued pursuant to this Act were not subject to the standards contained in section 510(b)(5)(A) and (B) by reason of complying with the proviso of section 510(b)(5), then the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to section 508 shall not be subject to the standards contained in section 510(b)(5)(A) and (B).

(3) Any permit renewal shall be for a term not to exceed the period of the original permit established by this Act. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

APPLICATION REQUIREMENTS
[30 U.S.C. 1257]

SEC. 507. (a) Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this Act shall be accompanied by a fee as determined by the regulatory authority. Such fee may be less than but shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program. The regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

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

(1) the names and addresses of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral), to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; and (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

Sec. 507

(2) the names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

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

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record 10 per centum or more of any class of voting stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States within the five-year period preceding the date of submission of the application;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

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

(7) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) the applicant shall file with the regulatory authority on an accurate map or plan, to an appropriate scale, clearly showing the land to be affected as of the date of the application, the area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations and shall provide to the regulatory authority a statement of those documents upon which the applicant bases his legal right to enter and commence surface mining operations on the area affected, and whether that right is the subject of pending court litigation: Provided, That nothing in this Act shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes;

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

(11) a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems

Sec. 507

including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability: Provided, however, That this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate Federal or State agency: Provided further, That the permit shall not be approved until such information is available and is incorporated into the application;

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

(13) accurate maps to an appropriate scale clearly showing (A) the land to be affected as of the date of application and (B) all types of information set forth on topographical maps of the United States Geological Survey of a scale of 1:24,000 or 1:25,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. Such a map or plan shall among other things specified by the regulatory authority show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area;

(14) cross-sections, maps or plans of land to be affected, including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture, showing pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of subsurface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and top-soil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

Sec. 507

Note: Subsection 507(b)(14) as affected by Pub. L. 98-146, November 4, 1983.

(15) a statement of the result of test borings or core samplings from the permit area, including logs of the drill holes; the thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined except that the provisions of this paragraph (15) may be waived by the regulatory authority with respect to the specific application by a written determination that such requirements are unnecessary;

(16) for those lands in the permit application which a reconnaissance inspection suggests may be prime farm lands, a soil survey shall be made or obtained according to standards established by the Secretary of Agriculture in order to confirm the exact location of such prime farm lands, if any; and

(17) information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest which is or may be adversely affected: Provided, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

Note: Subsection 507(c) amended November 5, 1990 and October 24, 1992.

(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

(B) The development of cross-section maps and plans required by subsection (b)(14).

(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

(E) Pre-blast surveys required by section 515(b)(15)(E).

Sec. 507

(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.

(d) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this Act.

(e) Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the recorder at the courthouse of the county or an appropriate public office approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

(f) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(g) Each applicant for a surface coal mining and reclamation permit shall submit to the regulatory authority as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of section 515(b)(15).

(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

Note: Subsection 507(h) added October 24, 1992.

RECLAMATION PLAN REQUIREMENTS
[30 U.S.C. 1258]

SEC. 508. (a) Each reclamation plan submitted as part of a permit application pursuant to any approved State program or a Federal program under the provisions of this Act shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal program can be accomplished, a statement of:

(1) the identification of the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

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

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover, and, if applicable, a soil survey prepared pursuant to section 507(b)(16); and

(C) the productivity of the land prior to mining, including appropriate classification as prime farm lands, as well as the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management;

(3) the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any owner of the surface, State and local governments or agencies thereof which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation;

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

(5) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 515(b)(7)(A), (B), (C), and (D), for those food, forage, and forest lands identified in sections 515(b)(7); an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 515;

(6) the consideration which has been given to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future can be minimized;

Sec. 508

(7) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

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

(9) the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(10) the consideration which has been given to developing the reclamation plan in a manner consistent with local physical environmental, and climatological conditions;

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

(12) the results of test boring which the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the regulatory authority, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden: Provided, That information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record;

(13) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of:

(A) the quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(B) the rights of present users to such water; and

(C) the quantity of surface and ground water systems, both on-and off-site, from adverse effects of the mining and reclamation process or to provide alternative sources of water where such protection of quantity cannot be assured;

(14) such other requirements as the regulatory authority shall prescribe by regulations.

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

PERFORMANCE BONDS

[30 U.S.C. 1259]

SEC. 509. (a) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, and conditional upon faithful performance of all the

Sec. 509

requirements of this Act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulatory authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit; shall reflect the probable difficulty of reclamation giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential, and shall be determined by the regulatory authority. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than \$10,000.

(b) Liability under the bond shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements in section 515. The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The regulatory authority may accept the bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount or in lieu of the establishment of a bonding program, as set forth in this section, the Secretary may approve as part of a State or Federal program an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

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

(e) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

PERMIT APPROVAL OR DENIAL
[30 U.S.C. 1260]

Sec. 510

SEC. 510. (a) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this Act and pursuant to an approved State program or Federal program under the provisions of this Act, including public notification and an opportunity for a public hearing as required by section 513, the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority and notify the applicant in writing. The applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the applicable State or Federal program. Within ten days after the granting of a permit, the regulatory authority shall notify the local governmental officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

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

(1) the permit application is accurate and complete and that all the requirements of this Act and the State or Federal program have been complied with;

(2) the applicant has demonstrated that reclamation as required by this Act and the State or Federal program can be accomplished under the reclamation plan contained in the permit application;

(3) the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in section 507(b) has been made by the regulatory authority and the proposed operation thereof has been designed to prevent material damage to hydrologic balance outside permit area;

(4) the area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced pursuant to section 522(a)(4)(D) or section 522(c) (unless in such an area as to which an administrative proceeding has commenced pursuant to section 522(a)(4)(D) of this Act, the operator making the permit application demonstrates that, prior to January 1, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit);

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

(A) not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the regulatory authority finds that if the farming that will be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production, or

Sec. 510

(B) not materially damage the quantity or quality of water in surface or underground water systems that supply these valley floors in (A) of subsection (b)(5): Provided, That this paragraph (5) shall not affect those surface coal mining operations which in the year preceding the enactment of this Act (I) produced coal in commercial quantities, and were located within or adjacent to alluvial valley floors or (II) had obtained specific permit approval by the State regulatory authority to conduct surface coal mining operations within said alluvial valley floors.

With respect to such surface mining operations which would have been within the purview of the foregoing proviso but for the fact that no coal was so produced in commercial quantities and no such specific permit approval was so received, the Secretary, if he determines that substantial financial and legal commitments were made by an operator prior to January 1, 1977, in connection with any such operation, is authorized, in accordance with such regulations as the Secretary may prescribe, to enter into an agreement with that operator pursuant to which the Secretary may, notwithstanding any other provision of law, lease other Federal coal deposits to such operator in exchange for the relinquishment by such operator of his Federal lease covering coal deposits involving such mining operations, or pursuant to section 206 of Federal Land Policy and Management Act of 1976, convey to the fee holder of any such coal deposits involving such mining operations the fee title to other available Federal coal deposits in exchange for the fee title to such deposits so involving such mining operations. It is the policy of the Congress that the Secretary shall develop and carry out a coal exchange program to acquire private fee coal precluded from being mined by the restrictions of this paragraph (5) in exchange for Federal coal which is not so precluded. Such exchanges shall be made under section 206 of the Federal Land Policy and Management Act of 1976;

(6) in cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the regulatory authority --

(A) the written consent of the surface owner to the extraction of coal by surface mining methods; or

(B) a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(C) if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with State law: Provided, That nothing in this Act shall be construed to authorize the regulatory authority to adjudicate property rights disputes.

(c) The applicant shall file with his permit application a schedule listing any and all notices of violations of this Act and any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation. Where the schedule or other information available to the regulatory authority indicates that any surface coal mining operation owned or controlled by the applicant is currently in

Sec. 510

violation of this Act or such other laws referred to this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation and no permit shall be issued to an applicant after a finding by the regulatory authority, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this Act of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this Act.

(d)(1) In addition to finding the application in compliance with subsection (b) of this section, if the area proposed to be mined contains prime farmland pursuant to Section 507(b)(16), the regulatory authority shall, after consultation with the Secretary of Agriculture, and pursuant to regulations issued hereunder by the Secretary of Interior with the concurrence of the Secretary of Agriculture, grant a permit to mine on prime farmland if the regulatory authority finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in Section 515(b)(7). Except for compliance with subsection (b), the requirements of this paragraph (1) shall apply to all permits issued after the date of enactment of this Act.

(2) Nothing in this subsection shall apply to any permit issued prior to the date of enactment of this Act, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to the date of enactment of this Act.

(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remaining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(b)(20)(B) shall terminate on September 30, 2004.

Note: Subsection 510(e) added October 24, 1992.

REVISION OF PERMITS
[30 U.S.C. 1261]

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

Sec. 511

(2) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal program can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within a period of time established by the State or Federal program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: Provided, That any revisions which propose significant alterations in the reclamation plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

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

(c) The regulatory authority shall within a time limit prescribed in regulations promulgated by the regulatory authority, review outstanding permits and may require reasonable revision or modification of the permit provisions during the term of such permit: Provided, That such revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by the State or Federal program.

COAL EXPLORATION PERMITS
[30 U.S.C. 1262]

SEC. 512. (a) Each State or Federal program shall include a requirement that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration regulations issued by the regulatory authority. Such regulations shall include, at a minimum (1) the requirement that prior to conducting any exploration under this section, any person must file with the regulatory authority notice of intention to explore and such notice shall include a description of the exploration area and the period of supposed exploration and (2) provisions for reclamation in accordance with the performance standards in section 515 of this Act of all lands disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

(b) Information submitted to the regulatory authority pursuant to this subsection as confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area shall not be available for public examination.

(c) Any person who conducts any coal exploration activities which substantially disturb the natural land surface in violation of this section or regulations issued pursuant thereto shall be subject to the provisions of section 518.

Sec. 512

(d) No operator shall remove more than two hundred and fifty tons of coal pursuant to an exploration permit without the specific written approval of the regulatory authority.

(e) Coal exploration on Federal lands shall be governed by section 4 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1085).

PUBLIC NOTICE AND PUBLIC HEARINGS
[30 U.S.C. 1263]

SEC. 513. (a) At the time of submission of an application for a surface coal mining and reclamation permit, or revision of an existing permit, pursuant to the provisions of this Act or an approved State program, the applicant shall submit to the regulatory authority a copy of his advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission such advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed surface mine at least once a week for four consecutive weeks. The regulatory authority shall notify various local governmental bodies, planning agencies, and sewage and water treatment authorities, of water companies in the locality in which the proposed surface mining will take place, notifying them of the operator's intention to surface mine a particularly described tract of land and indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable period established by the regulatory authority on the mining applications with respect to the effect of the proposed operation on the environment which are within their area of responsibility. Such comments shall immediately be transmitted to the applicant by the regulatory authority and shall be made available to the public at the same locations as are the mining applications.

(b) Any person having an interest which is or may be adversely affected or the officer or head of any Federal, State, or local governmental agency or authority shall have the right to file written objections to the proposed initial or revised application for a permit for surface coal mining and reclamation operation with the regulatory authority within thirty days after the last publication of the above notice. Such objections shall immediately be transmitted to the applicant by the regulatory authority and shall be made available to the public. If written objections are filed and an informal conference requested, the regulatory authority shall then hold an informal conference in the locality of the proposed mining, if requested within a reasonable time of the receipt of such objections or request. The date, time and location of such informal conference shall be advertised by the regulatory authority in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. The regulatory authority may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the

Sec. 513

purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. Such record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, such informal conference need not be held.

(c) Where the lands included in an application for a permit are the subject of a Federal coal lease in connection with which hearings were held and determinations were made under sections 2(a)(3)(A), (B) and (C) of the Mineral Lands Leasing Act, as amended (30 U.S.C. 201(a)(3)(A), (B) and (C)), such hearings shall be deemed as to the matters covered to satisfy the requirements of this section and section 514 and such determinations shall be deemed to be a part of the record and conclusive for purposes of sections 510, 514 and this section.

DECISIONS OF REGULATORY AUTHORITY AND APPEALS
[30 U.S.C. 1264]

SEC. 514. (a) If an informal conference has been held pursuant to section 513(b), the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within the sixty days of said hearings.

(b) If there has been no informal conference held pursuant to section 513(b), the regulatory authority shall notify the applicant for a permit within a reasonable time as determined by the regulatory authority and set forth in regulations, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or part.

(c) If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. If the Secretary is the regulatory authority the hearing shall be of record and governed by 5 U.S.C. Section 554. Where the regulatory authority is the State, such hearing shall be of record, adjudicatory in nature and no person who presided at a conference under section 513(b) shall either preside at the hearing or participate in this decision thereon or in any administrative appeal therefrom. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of

Sec. 514

the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(d) Where a hearing is requested pursuant to subsection (c), the Secretary, where the Secretary is the regulatory authority, or the State hearing authority may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if -

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

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

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

(e) For the purpose of such hearing, the regulatory authority may administer oaths, subpoena witnesses, or written or printed materials, compel attendance of the witness, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this Act shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

(f) Any applicant or any person with an interest which is or may be adversely affected who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within the time limits specified in this Act shall have the right to appeal in accordance with section 526.

ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

[30 U.S.C. 1265]

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

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

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

(2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of

Sec. 515

which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of Federal, State, or local law;

(3) except as provided in subsection (c) with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this Act): Provided, however, That in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region: And provided further, That in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming, and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that such overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and is revegetated in accordance with the requirements of this Act;

(4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(5) remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and

Sec. 515

is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which is best able to support vegetation;

(6) restore the topsoil or the best available subsoil which is best able to support vegetation;

(7) for all prime farm lands as identified in section 507(b)(16) to be mined and reclaimed, specifications for soil removal, storage, replacement, and reconstruction shall be established by the Secretary of Agriculture, and the operator shall, as a minimum, be required to --

(A) segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil; and if not utilized immediately, stockpile this material separately from other spoil, and provide needed protection from wind and water erosion or contamination by other acid or toxic material;

(C) replace and regrade the root zone material described in (B) above with proper compaction and uniform depth over the regarded spoil material; and

(D) redistribute and grade in a uniform manner the surface soil horizon described in subparagraph (A);

(8) create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that -

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

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

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable Federal and State law in the receiving stream;

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

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

Sec. 515

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

(9) conducting any augering operation associated with surface mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete; and seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the regulatory authority determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety: Provided, That the permitting authority may prohibit augering if necessary to maximize the utilization, recoverability or conservation of the solid fuel resources or to protect against adverse water quality impacts;

(10) minimize the disturbances to the prevailing hydrologic balance at the mine-site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by -

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

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

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells and keep acid or other toxic drainage from entering ground and surface waters;

(B)(i) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable State or Federal law;

(ii) constructing any siltation structures pursuant to subparagraph (B)(i) of this subsection prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans to be constructed as designed and as approved in the reclamation plan;

Note: Subsection 515(b)(10)(B)(ii) amended October 30, 1986.

(C) cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized; and depositing the silt and debris at a site and in a manner approved by the regulatory authority;

Sec. 515

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

(E) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(F) preserving throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country; and

(G) such other actions as the regulatory authority may prescribe;

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

(12) refrain from surface coal mining within five hundred feet from active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: Provided, That the regulatory authority shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if (A) the nature, timing, and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are jointly approved by the regulatory authorities concerned with surface mine regulation and the health and safety of underground miners, and (B) such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public;

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

(14) insure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to -

(A) provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site and by providing daily notice to resident/occupiers in such areas prior to any blasting;

Sec. 515

(B) maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

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

(D) require that all blasting operations be conducted by trained and competent persons as certified by the regulatory authority;

(E) provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half mile of any portion of the permitted area the applicant or permittee shall conduct a pre-blasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request. The area of the survey shall be decided by the regulatory authority and shall include such provisions as the Secretary shall promulgate.

(16) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations: Provided, however, That where the applicant proposes to combine surface mining operations with underground mining operations to assure maximum practical recovery of the mineral resources, the regulatory authority may grant a variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

(A) if the regulatory authority finds in writing that:

(i) the applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(ii) the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(iii) the applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate authority;

(iv) the areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(v) no substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this Act;

(vi) provisions for the off-site storage of spoil will comply with section 515(b)(22);

Sec. 515

(B) if the Secretary has promulgated specific regulations to govern the granting of such variances in accordance with the provisions of this subsection and section 501, and has imposed such additional requirements as he deems necessary;

(C) if variances granted under the provisions of this subsection are to be reviewed by the regulatory authority not more than three years from the date of issuance of the permit; and

(D) if liability under the bond filed by the applicant with the regulatory authority pursuant to section 509(b) shall be for the duration of the underground mining operations and until the requirements of sections 515(b) and 519 have been fully complied with.

(17) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

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

(19) establish on the regarded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(20)(A) assume the responsibility for successful revegetation, as required by paragraph (19) above, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with paragraph (19) above, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extend for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work: Provided, That when the regulatory authority approves a long-term intensive agricultural postmining land use, the applicable five-or ten-year period of responsibility for revegetation shall commence at the date of initial planting for such long-term intensive agricultural postmining land use: Provided further, That when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan, the authority may grant exception to the provisions of paragraph (19) above;

(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last

Sec. 515

year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.

Note: Subsection 515(b)(20)(B) added October 24, 1992.

(21) protect offsite areas from slides or damage occurring during the surface coal mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(22) place all excess spoil material resulting from coal surface mining and reclamation activities in such a manner that -

(A) spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way to assure mass stability and to prevent mass movement;

(B) the areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(C) appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(D) the disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(E) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the regulatory authority, the spoil could be placed in compliance with all the requirements of this Act, and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if such placement provides additional stability and prevents mass movement;

(F) where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed;

(G) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(H) design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(I) all other provisions of this Act are met.

(23) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this Act, taking into consideration the physical, climatological, and other characteristics of the site; and

(24) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(25) provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as

Sec. 515

the regulatory authority shall determine shall be retained in place as a barrier to slides and erosion.

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

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a permit without regard to the requirement to restore to approximate original contour set forth in subsection 515(b)(3) or 515(d)(2) and (3) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c)(4)(A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) In cases where an industrial, commercial, agricultural, residential or public facility (including recreational facilities) use is proposed or the postmining use of the affected land, the regulatory authority may grant a permit for a surface mining operation of the nature described in subsection (c)(2) where -

(A) after consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed to constitute an equal or better economic or public use of the affected land, as compared with premining use;

(B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be -

(i) compatible with adjacent land uses;

(ii) obtainable according to data regarding expected need and market;

(iii) assured of investment in necessary public facilities;

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

(v) practicable with respect to private financial capability for completion of the proposed use;

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

(vii) designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

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

(D) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in

Sec. 515

the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

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

(4) In granting any permit pursuant to this subsection the regulatory authority shall require that -

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

(B) the reclaimed area is stable;

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

(D) no damage will be done to natural watercourses;

(E) spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use: Provided, That all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subsection (b)(22) of this section;

(F) insure stability of the spoil retained on the mountaintop and meet the other requirements of this Act;

(5) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.

(6) All permits granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(d) The following performance standards shall be applicable to steep-slope surface coal mining and shall be in addition to those general performance standards required by this section: Provided, however, That the provisions of this subsection (d) shall not apply to those situations in which an operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area or where an operator is in compliance with provisions of subsection (c) hereof:

(1) Insure that when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut: Provided, That spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of paragraph 515(b)(3) or 515(d)(2) shall be permanently stored pursuant to section 515(b)(22).

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

(3) The operator may not disturb land above the top of the highwall unless the regulatory authority finds that such disturbance will facilitate compliance with the environmental protection standards of this section: Provided, however, That the land

Sec. 515

disturbed above the highwall shall be limited to that amount necessary to facilitate said compliance.

(4) For the purposes of this subsection (d), the term "steep slope" is any slope above twenty degrees or such lesser slope as may be defined by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

(e) (1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection, provided that the watershed control of the area is improved; and further provided complete backfilling with spoil material shall be required to cover completely the highwall which material will maintain stability following mining and reclamation.

(2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement to restore to approximate original contour set forth in subsection 515(d)(2) of this section may be granted for the surface mining of coal where the owner of the surface knowingly requests in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities) in accord with the further provisions of (3) and (4) of this subsection.

(3) (A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;

(B) is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and

(C) after approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved.

(4) In granting a variance pursuant to this subsection the regulatory authority shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, insure stability of the spoil retained on the bench, meet all other requirements of this Act, and all spoil placement off the mine bench must comply with subsection 515(b)(22).

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

(6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(f) The Secretary, with the written concurrence of the Chief of Engineers, shall establish within one hundred and thirty-five days from the date of enactment, standards and criteria regulating the design, location, construction, operation,

Sec. 515

maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in section 515(b)(13) and section 516(b)(5). Such standards and criteria shall conform to the standards and criteria used by the Chief of Engineers to insure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications the standards and criteria developed pursuant to this subsection must include provisions for: review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

**SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS
[30 U.S.C. 1266]**

SEC. 516. (a) The Secretary shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, embodying the following requirements and in accordance with the procedures established under section 501 of this Act: Provided, however, That in adopting any rules and regulations the Secretary shall consider the distinct difference between surface coal mining and underground coal mining. Such rules and regulations shall not conflict with nor supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 nor any regulation issued pursuant thereto, and shall not be promulgated until the Secretary has obtained the written concurrence of the head of the department which administers such Act.

(b) Each permit issued under any approved State or Federal program pursuant to this Act and relating to underground coal mining shall require the operator to -

(1) adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: Provided, That nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining;

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

(3) fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

Sec. 516

(4) with respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not degrade below water quality standards established pursuant to applicable Federal and State law surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

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

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

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

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

(9) minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by-

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

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

(ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses;

(iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and

(B) conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to stream flow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable State or Federal law), and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(10) with respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas,

Sec. 516

processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 515 of this title for such effects which result from surface coal mining operations: Provided, That the Secretary shall make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct difference between surface and underground coal mining;

(11) to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(12) locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns, and communities.

(d) The provisions of title V of this Act relating to State and Federal programs, permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The Secretary shall promulgate such modifications in accordance with the rulemaking procedure established in section 501 of this Act.

INSPECTIONS AND MONITORING

[30 U.S.C. 1267]

SEC. 517. (a) The Secretary shall cause to be made such inspections of any surface coal mining and reclamation operations as are necessary to evaluate the administration of approved State programs, or to develop or enforce any Federal program, and for such purposes authorized representatives of the Secretary shall have a right of entry to, upon, or through any surface coal mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any approved State or Federal program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of any such State or Federal program or any other requirement of this Act --

Sec. 517

(1) the regulatory authority shall require any permittee to (A) establish and maintain appropriate records, (B) make monthly reports to the regulatory authority, (C) install, use, and maintain any necessary monitoring equipment or methods, (D) evaluate results in accordance with such methods, at such locations, intervals, and in such manner as a regulatory authority shall prescribe, and (E) provide such other information relative to surface coal mining and reclamation operations as the regulatory authority deems reasonable and necessary;

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

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

(B) monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

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

(D) monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity; and

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

(c) The inspections by the regulatory authority shall (1) occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit; (2) occur without prior notice to the permittee or his agents or employees except for necessary onsite meetings with the permittee; and (3) include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act.

(d) Each permittee shall conspicuously maintain at the entrances to the surface coal mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operations.

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

Sec. 517

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

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

(h)(1) Any person who is or may be adversely affected by a surface mining operation may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which he has reason to believe exists at the surface mining site. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(2) The Secretary shall also, by regulation, establish procedures to insure that adequate and complete inspections are made. Any such person may notify the Secretary of any failure to make such inspections, after which the Secretary shall determine whether adequate and complete inspections have been made. The Secretary shall furnish such persons a written statement of the reasons for the Secretary's determination that adequate and complete inspections have or have not been conducted.

PENALTIES
[30 U.S.C. 1268]

SEC. 518. (a) In the enforcement of a Federal program or Federal lands program, or during Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act, any permittee who violates any permit condition or who violates any other provision of this title, may be assessed a civil penalty by the Secretary, except that if such violation leads to the issuance of a cessation order under section 521, the civil penalty

Sec. 518

shall be assessed. Such penalty shall not exceed \$5,000 for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the permittee's history of previous violations at the particular surface coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation.

(b) A civil penalty shall be assessed by the Secretary only after the person charged with a violation described under subsection (a) of this section has been given an opportunity for a public hearing. Where such a public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. When appropriate, the Secretary shall consolidate such hearings with other proceedings under section 521 of this Act. Any hearing under this section shall be of record and shall be subject to section 554 of title 5 of the United States Code. Where the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Secretary after the Secretary has determined that a violation did occur, and the amount of the penalty which is warranted, and has issued an order requiring that the penalty be paid.

(c) Upon the issuance of a notice or order charging that a violation of the Act has occurred, the Secretary shall inform the operator within thirty days of the proposed amount of said penalty. The person charged with the penalty shall then have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Secretary for placement in an escrow account. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of the penalty should be reduced, the Secretary shall within thirty days remit the appropriate amount to the person, with interest at the rate of 6 percent, or at the prevailing Department of the Treasury rate, whichever is greater. Failure to forward the money to the Secretary within thirty days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

(d) Civil penalties owed under this Act, may be recovered in a civil action brought by the Attorney General at the request of the Secretary in any appropriate district court of the United States.

(e) Any person who willfully and knowingly violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or during Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 521 or section 526 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act, except an order incorporated in a decision issued under subsection (b) of this section or section 704 of this Act, shall,

Sec. 518

upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year or both.

(f) Whenever a corporate permittee violates a condition of a permit issued pursuant to a Federal program, a Federal lands program or Federal enforcement pursuant to section 502 or Federal enforcement of a State program pursuant to section 521 of this Act or fails or refuses to comply with any order issued under section 521 of this Act, or any order incorporated in a final decision issued by the Secretary under this Act except an order incorporated in a decision issued under subsection (b) of this section or section 703 of this Act, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (e) of this section.

(g) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to a Federal program or a Federal lands program or any order of decision issued by the Secretary under this Act, shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year or both.

(h) Any operator who fails to correct a violation for which a citation has been issued under section 521(a) within the period permitted for its correction (which period shall not end until the entry of a final order by the Secretary, in the case of any review proceedings under section 525 initiated by the operator wherein the Secretary orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings under section 526 initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation), shall be assessed a civil penalty of not less than \$750 for each day during which such failure or violation continues.

(i) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the civil and criminal penalty provisions thereof shall, at a minimum, incorporate penalties no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement right or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated herein.

Note: Pub. L. 100-202 relates to Section 518.

Sec. 519

**RELEASE OF PERFORMANCE BONDS OR DEPOSITS
[30 U.S.C. 1269]**

SEC. 519. (a) The permittee may file a request with the regulatory authority for the release of all or part of a performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit and the date approved, the amount of the bond filed and the portion sought to be released, and the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface coal mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(b) Upon receipt of the notification and request, the regulatory authority shall within thirty days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution. The regulatory authority shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty days from the filing of the request, if no public hearing is held pursuant to section 519(f), and if there has been a public hearing held pursuant to section 519(f), within thirty days thereafter.

(c) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of 60 per centum of the bond or collateral for the applicable permit area.

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the regulatory authority shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility in section 515 of reestablishing revegetation. No part of the bond or deposit shall be released under this paragraph so

Sec. 519

long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 515(b)(10) or until soil productivity for prime farm lands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 507(b)(16). Where a silt dam is to be retained as a permanent impoundment pursuant to section 515(b)(8), the portion of bond may be released under this paragraph so long as provisions for sound future maintenance by the operator or the landowner have been made with the regulatory authority.

(3) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in section 515: Provided, however, That no bond shall be fully released until all reclamation requirements of this Act are fully met.

(d) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release and allowing opportunity for a public hearing.

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

(f) Any person with a valid legal interest which might be adversely affected by release of the bond or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations shall have the right to file written objections to the proposed release from bond to the regulatory authority within thirty days after the last publication of the above notice. If written objections are filed, and a hearing requested, the regulatory authority shall inform all the interested parties, of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within thirty days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the regulatory authority in a newspaper of general circulation in the locality for two consecutive weeks, and shall hold a public hearing in the locality of the surface coal mining operation proposed for bond release or at the State capital at the option of the objector, within thirty days of the request for such hearing.

(g) Without prejudice to the rights of the objectors, the applicant, or the responsibilities of the regulatory authority pursuant to this section, the regulatory authority may establish an informal conference as provided in section 513 to resolve such written objections.

(h) For the purpose of such hearing the regulatory authority shall have the authority and is hereby empowered to administer oaths, subpoena witnesses, or written

Sec. 519

or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing required by this Act shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

**CITIZEN SUITS
[30 U.S.C. 1270]**

SEC. 520. (a) Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act--

(1) against the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution which is alleged to be in violation of the provisions of this Act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued pursuant to this title; or

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

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(b) No action may be commenced -

(1) under subsection (a)(1) of this section -

(A) prior to sixty days after the plaintiff has given notice in writing of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii) to any alleged violator; or

(B) if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act, or any rule, regulation, order, or permit issued pursuant to this Act, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, or to the appropriate State regulatory authority, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

Sec. 520

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

(2) In such action under this section, the Secretary, or the State regulatory authority, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary or the appropriate State regulatory authority).

(f) Any person who is injured in his person or property through the violation by any operator of any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district in which the surface coal mining operation complained of is located. Nothing in this subsection shall affect the rights established by or limits imposed under State Workmen's Compensation laws.

ENFORCEMENT
[30 U.S.C. 1271]

SEC. 521. (a)(1) Whenever, on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority, if one exists, in the State in which such violation exists. If no such State authority exists or the State regulatory authority fails within ten days after notification to take appropriate action to cause said violation to be corrected or to show good cause for such failure and transmit notification of its action to the Secretary, the Secretary shall immediately order Federal inspection of the surface coal mining operation at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of such surface coal mining operation. The ten-day notification period shall be waived when the person informing the Secretary provides adequate proof that an imminent danger of significant environmental harm exists and that the State has failed to take appropriate action. When the Federal inspection results from information provided to the Secretary by any person, the Secretary shall notify such person when the Federal

Sec. 521

inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(2) When, on the basis of any Federal inspection, the Secretary or his authorized representative determines that any condition or practices exist, or that any permittee is in violation of any requirement of this Act or any permit condition required by this Act, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or his authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section. Where the Secretary finds that the ordered cessation of surface coal mining and reclamation operations, or any portion thereof, will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

(3) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 502, or section 504(b) or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act; but such violation does not create an imminent danger to the health or safety of the public, or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary or authorized representative shall issue a notice to the permittee or his agent fixing a reasonable time but not more than ninety days for the abatement of the violation and providing opportunity for public hearing. If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon the written finding of the Secretary or his authorized representative, the Secretary or his authorized representative finds that the violation has not been abated, he shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary or his authorized representative determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary or his authorized representative pursuant to subparagraph (a)(5) of this section. In the order of cessation issued by the Secretary under this subsection, the Secretary shall determine the steps necessary to abate the violation in

Sec. 521

the most expeditious manner possible, and shall include the necessary measures in the order.

(4) When, on the basis of a Federal inspection which is carried out during the enforcement of a Federal program or a Federal lands program, Federal inspection pursuant to section 502 or section 504 or during Federal enforcement of a State program in accordance with subsection (b) of this section, the Secretary or his authorized representative determines that a pattern of violations of any requirements of this Act or any permit conditions required by this Act exists or has existed, and if the Secretary or his authorized representative also find that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this Act or any permit conditions, or that such violations are willfully caused by the permittee, the Secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide opportunity for a public hearing. If a hearing is requested the Secretary shall inform all interested parties of the time and place of the hearing. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the Secretary or his authorized representative shall forthwith suspend or revoke the permit.

(5) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the Secretary or his authorized representative who issues such notice or order, and all such notices and orders shall be in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary or his authorized representative. A copy of any such order or notice shall be sent to the State regulatory authority in the State in which the violation occurs: Provided, That any notice or order issued pursuant to this section which requires cessation of mining by the operator shall expire within thirty days of actual notice to the operator unless a public hearing is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing.

(b) Whenever on the basis of information available to him, the Secretary has reason to believe that violations of all or any part of an approved State program result from a failure of the State to enforce such State program or any part thereof effectively, he shall after public notice and notice to the State, hold a hearing thereon in the State within thirty days of such notice. If as a result of said hearing the Secretary finds that there are violations and such violations result from a failure of the State to enforce all or any part of the State program effectively, and if he further finds that the State has not adequately demonstrated its capability and intent to enforce such State program, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce this Act, the Secretary shall enforce, in the manner provided by

Sec. 521

this Act, any permit condition required under this Act, shall issue new or revised permits in accordance with requirements of this Act, and may issue such notices and orders as are necessary for compliance therewith: Provided, That in the case of a State permittee who has met his obligations under such permit and who did not willfully secure the issuance of such permit through fraud or collusion, the Secretary shall give the permittee a reasonable time to conform ongoing surface mining and reclamation to the requirements of this Act before suspending or revoking the State permit.

(c) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the permittee thereof has his principal office, whenever such permittee or his agent (A) violates or fails or refuses to comply with any order or decision issued by the Secretary under this Act, or (B) interferes with, hinders, or delays the Secretary or his authorized representatives in carrying out the provisions of this Act, or (C) refuses to admit such authorized representative to the mine, or (D) refuses to permit inspection of the mine by such authorized representative, or (E) refuses to furnish any information or report requested by the Secretary in furtherance of the provisions of this Act, or (F) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this Act. Such court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended. Any relief granted by the court to enforce an order under clause (A) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it.

(d) As a condition of approval of any State program submitted pursuant to section 503 of this Act, the enforcement provisions thereof shall, at a minimum, incorporate sanctions no less stringent than those set forth in this section, and shall contain the same or similar procedural requirements relating thereto. Nothing herein shall be construed so as to eliminate any additional enforcement rights or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated herein.

**DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING
[30 U.S.C. 1272]**

SEC. 522. (a)(1) To be eligible to assume primary regulatory authority pursuant to section 503, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain

Sec. 522

types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not technologically and economically feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will -

(A) be incompatible with existing State or local land use plans or programs; or

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or

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

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes -

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

(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;

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

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

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

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

(b) The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this

Sec. 522

section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining operations: Provided, however, That the Secretary may permit surface coal mining on Federal lands prior to the completion of this review. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 504, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section. Prior to designating Federal lands unsuitable for such mining, the Secretary shall consult with the appropriate State and local agencies.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefore. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

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

(e) After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted -

(1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress;

(2) on any Federal lands within the boundaries of any national forest: Provided, however, That surface coal mining operations may be permitted on such lands if the Secretary finds that there are no significant recreational, timber,

Sec. 522

economic, or other values which may be incompatible with such surface mining operations and -

(A) surface operations and impacts are incident to an underground coal mine; or

(B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this Act: And provided further, That no surface coal mining operations may be permitted within the boundaries of the Custer National Forest;

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

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

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

FEDERAL LANDS
[30 U.S.C. 1273]

SEC. 523. (a) No later than one year after the date of enactment of this Act, the Secretary shall promulgate and implement a Federal lands program which shall be applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: Provided, That except as provided in section 710 the provisions of this Act shall not be applicable to Indian lands. The Federal lands program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program: Provided, That the Secretary shall retain his duties under sections 2(a), (2)(B) and 2(a)(3) of the Federal Mineral Leasing Act, as amended, and shall continue to be responsible for

Sec. 523

designation of Federal lands as unsuitable for mining in accordance with section 522(b) of this title.

(b) The requirements of this Act and the Federal lands program or an approved State program for State regulation of surface coal mining on Federal lands under subsection (c), whichever is applicable, shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface coal mining and reclamation operations. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal lands program to deal with changing conditions or changed technology, and to require any surface mining and reclamation operations to conform with the requirements of this Act and the regulations issued pursuant to this Act.

(c) Any State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act. States with cooperative agreements existing on the date of enactment of this Act, may elect to continue regulation on Federal lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act. Nothing in this subsection shall be construed as authorizing the Secretary to delegate to the States his duty to approve mining plans on Federal lands, to designate certain Federal lands as unsuitable for surface coal mining pursuant to section 522 of this Act, or to regulate other activities taking place on Federal lands.

(d) The Secretary shall develop a program to assure that with respect to the granting of permits, leases, or contracts for coal owned by the United States, that no class of purchasers of the mined coal shall be unreasonably denied purchase thereof.

PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC CORPORATIONS
[30 U.S.C. 1274]

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

REVIEW BY SECRETARY
[30 U.S.C. 1275]

SEC. 525. (a)(1) A permittee issued a notice or order by the Secretary pursuant to the provisions of subparagraphs (a)(2) and (3) of section 521 of this title, or pursuant to a Federal program or the Federal lands program or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the modification, vacation, or termination thereof. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

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

(b) Upon receiving the report of such investigation, the Secretary shall make findings of fact, and shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the notice or order, or the modification, vacation, or termination of such notice or order complained of and incorporate his findings therein. Where the application for review concerns an order for cessation of surface coal mining and reclamation operations issued pursuant to the provisions of subparagraph (a)(2) or (a)(3) of section 521 of this title, the Secretary shall issue the written decision within thirty days of the receipt of the application for review, unless temporary relief has been granted by the Secretary pursuant to subparagraph (c) of this section or by the court pursuant to subparagraph (c) of section 526 of this title.

(c) Pending completion of the investigation and hearing required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any notice or order issued under section 521 of this title, a Federal program or the Federal lands program together with a detailed statement giving reasons for granting such relief. The Secretary shall issue an order or decision granting or denying such relief expeditiously: Provided, That where the applicant requests relief from an order for cessation of coal mining and reclamation operations issued pursuant to subparagraph (a)(2) or (a)(3) of section 521 of this title, the order or decision on such a request shall be issued within five days of its receipt. The Secretary may grant such relief, under such conditions as he may prescribe, if--

Sec. 525

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

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to him; and

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

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

(e) Whenever an order is issued under this section, or as a result of any administrative proceeding under this Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

JUDICIAL REVIEW
[30 U.S.C. 1276]

SEC. 526. (a)(1) Any action of the Secretary to approve or disapprove a State program or to prepare or promulgate a Federal program pursuant to this Act shall be subject to judicial review by the United States District Court for the District which includes the capital of the State whose program is at issue. Any action by the Secretary promulgating national rules or regulations including standards pursuant to sections 501, 515, 516, and 523 shall be subject to judicial review in the United States District Court for the District of Columbia Circuit. Any other action constituting rulemaking by the Secretary shall be subject to judicial review only by the United States District Court for the District in which the surface coal mining operation is located. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the appropriate Court within sixty days from the date of such action, or after such date if the petition is based solely on

Sec. 526

grounds arising after the sixtieth day. Any such petition may be made by any person who participated in the administrative proceedings and who is aggrieved by the action of the Secretary.

(2) Any order or decision issued by the Secretary in a civil penalty proceeding or any other proceeding required to be conducted pursuant to 5 U.S.C. subsection 554 shall be subject to judicial review on or before 30 days from the date of such order or decision in accordance with subsection (b) of this section in the United States District Court for the district in which the surface coal mining operation is located. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. This availability of review established in this subsection shall not be construed to limit the operations of rights established in Section 520.

(b) The courts shall hear such petition or complaint solely on the record made before the Secretary. Except as provided in subsection (a), the findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, including an order or decision issued pursuant to subparagraph (c) or (d) of section 525 of this title pertaining to any order issued under subparagraph (a)(2), (a)(3), or (a)(4) of section 521 of this title for cessation of coal mining and reclamation operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if --

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

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

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

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the Secretary.

(e) Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by a court of competent jurisdiction in accordance with State law, but the availability of such review shall not be construed to limit the operation of the rights established in section 520 except as provided therein.

Sec. 527

SPECIAL BITUMINOUS COAL MINES
[30 U.S.C. 1277]

SEC. 527. (a) The regulatory authority is authorized to issue separate regulations for those special bituminous coal surface mines located west of the 100th meridian west longitude which meet the following criteria:

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

(2) the excavation of the specific mine pit follows a coal seam having an inclination of fifteen degrees or more from the horizontal, and continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain stability or as necessary to accommodate the orderly expansion of the total mining operation;

(3) the excavation of the specific mine pit involves the mining of more than one coal seam and mining has been initiated on the deepest coal seam contemplated to be mined in the current operation;

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

(5) there is no practicable alternative method of mining the coal involved;

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

(7) the specific mine pit has been actually producing coal since January 1, 1972, in such manner as to meet the criteria set forth in this section, and, because of past duration of mining, is substantially committed to a mode of operation which warrants exceptions to some provisions of this title.

(b) Such separate regulations shall also contain a distinct part to cover and pertain to new bituminous coal surface mines which may be developed after the date of enactment of this Act on lands immediately adjacent to lands upon which are located special bituminous mines existing on January 1, 1972. Such new mines shall meet the criteria of section 527(a) except for subparagraphs (3) and (7), and all requirements of State law, notwithstanding in whole or part the regulations issued pursuant to subsection (c) of this section. In the event of an amendment or revision to the State's regulatory program, regulations, or decisions made thereunder governing such mines, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(c) Such alternative regulations may pertain only to the standards governing onsite handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regrading to the approximate original contour and shall specify that remaining highwalls are stable. All other performance standards in this title shall apply to such mines.

Sec. 528

SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT
[30 U.S.C. 1278]

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

- (1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and
- (2) the extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under regulations established by the regulatory authority.

Note: Section 528(2) amended May 7, 1987.

ANTHRACITE COAL MINES
[30 U.S.C. 1279]

SEC. 529. (a) The Secretary is authorized to and shall issue separate regulations according to time schedules established in the Act for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence at the date of enactment of this Act in lieu of sections 515 and 516. Provisions of sections 509 and 519 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: Provided, however, That upon amendment of a State's regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.

(b) The Secretary of Interior shall report to Congress biennially, commencing on December 31, 1977, as to the effectiveness of such State anthracite regulatory programs operating in conjunction with this Act with respect to protecting the environment and such reports shall include those recommendations the Secretary deems necessary for program changes in order to better meet the environmental protection objectives of this Act.

**TITLE VI -- DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL
MINING**

**DESIGNATION PROCEDURES
[30 U.S.C. 1281]**

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

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

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: Provided, however, That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

(d) In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such petition in accordance with subsection (c) hereof. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

(e) Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of

Sec. 601

such designation on the environment, economy, and the supply of such mineral resources.

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

(g) Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

TITLE VII – ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

DEFINITIONS [30 U.S.C. 1291]

SEC. 701. For the purposes of this Act -

(1) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits;

(2) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 515(b)(8) of this Act;

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

(4) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands: Provided, That for the purposes of this Act lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority shall not be subject to sections 714 (Surface Owner Protection) and 715 (Federal Lessee Protection) of this Act.

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

(6) "Federal program" means a program established by the Secretary pursuant to section 504 to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this Act;

(7) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 401;

(8) "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this Act in a surface coal mining and reclamation operation, which condition, practice, or

Sec. 701

violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

(9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe;

(10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(12) "Office" means the Office of Surface Mining Reclamation and Enforcement established pursuant to title II;

(13) "operator" means any person, partnership, or corporation engaged in coal mining who removes or intends to remove more than two hundred and fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in any one location;

(14) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

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

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

(17) "permit area" means the area of land indicated on the approved map submitted by the operator with his application, which area of land shall be covered by the operator's bond as required by section 509 of this Act and shall be readily identifiable by appropriate markers on the site;

(18) "permittee" means a person holding a permit;

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

(20) the term "prime farmland" shall have the same meaning as that previously prescribed by the Secretary of Agriculture on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics, and which historically have been used for intensive agricultural purposes, and as published in the Federal Register.

(21) "reclamation plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to section 508;

Sec. 701

(22) "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program;

(23) "Secretary" means the Secretary of the Interior, except where otherwise described;

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

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

(26) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this Act;

(27) "surface coal mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this Act;

(28) "surface coal mining operations" means -

(A) activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however, That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 2/3 per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entry ways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities; and

(29) "unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any

Sec. 701

violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care;

(30) "lignite coal" means consolidated lignitic coal having less than 8,300 British thermal units per pound, moist and mineral matter free;

(31) the term "coal laboratory", as used in title VIII, means a university coal research laboratory established and operated pursuant to a designation made under section 801 of this Act;

(32) the term "institution of higher education" as used in titles VIII and IX, means any such institution as defined by section 1201(a) of the Higher Education Act of 1968;

(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

Note: Subsection 701(33) added October 24, 1992.

(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).

Note: Subsection 701(34) added October 24, 1992.

OTHER FEDERAL LAWS
[30 U.S.C. 1292]

SEC. 702. (a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321-47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to -

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

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

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

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

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

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

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

(8) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

(b) Nothing in this Act shall affect in any way the authority of the Secretary or

Sec. 702

the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

(c) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

(d) Approval of the State programs, pursuant to section 503(b), promulgation of Federal programs, pursuant to section 504, and implementation of the Federal lands programs, pursuant to section 523 of this Act, shall not 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). Adoption of regulations under section 501(b) 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).

EMPLOYEE PROTECTION
[30 U.S.C. 1293]

SEC. 703. (a) No person shall discharge, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary for a review of such firing or alleged discrimination. A copy of the application shall be sent to the person or operator who will be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to the alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that a violation did occur, he shall issue a decision incorporating therein his findings and an order requiring the party committing the violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no violation, he will issue a finding. Orders issued by the

Sec. 703

Secretary under this subsection shall be subject to judicial review in the same manner as orders and decisions of the Secretary are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate any violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the persons committing the violation.

PENALTY FOR INTERFERENCE
[30 U.S.C. 1294]

SEC. 704. Any person who shall, except as permitted by law, willfully resist, prevent, impede, or interfere with the Secretary or any of his agents in the performance of duties pursuant to this Act shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both.

Note: Pub. L. 95-87 also amended section 1114 of Title 18.

GRANTS TO THE STATES
[30 U.S.C. 1295]

SEC. 705. (a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act. Except as provided in subsection (c) of this section, such grants shall not exceed 80 per centum of the total costs incurred during the first year, 60 per centum of total costs incurred during the second year, and 50 per centum of the total costs incurred during each year thereafter.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include -

(1) technical assistance and training including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface coal mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface coal mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

Sec. 705

(c) If, in accordance with section 523(d) of this Act, a State elects to regulate surface coal mining and reclamation operations on Federal lands, the Secretary may increase the amount of the annual grants under subsection (a) of this section by an amount which he determines is approximately equal to the amount the Federal Government would have expended for such regulation if the State had not made such election.

ANNUAL REPORT
[30 U.S.C. 1296]

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

SEVERABILITY
[30 U.S.C. 1297]

SEC. 707. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

ALASKAN SURFACE COAL MINE STUDY
[30 U.S.C. 1298]

SEC. 708. (a) The Secretary is directed to contract to such extent or in such amounts as are provided in advance in appropriation Acts with the National Academy of Sciences-National Academy of Engineering for an in-depth study of surface coal mining conditions in the State of Alaska in order to determine which, if any, of the provisions of this Act should be modified with respect to surface coal mining operations in Alaska.

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

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

(d) Until one year after the Secretary has made this report to the President and Congress, or three years after the date of enactment of this Act, whichever comes

Sec. 708

first, the Secretary is authorized to modify the applicability of any environmental protection provision of this Act, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding enactment of this Act if he determines that it is necessary to insure the continued operation of such surface coal mining operation. The Secretary may exercise this authority only after he has (1) published notice of proposed modification in the Federal Register and in a newspaper of general circulation in the area of Alaska in which the affected surface coal mining operation is located, and (2) held a public hearing on the proposed modification in Alaska.

(e) In order to allow new mines in Alaska to continue orderly development, the Secretary is authorized to issue interim regulations pursuant to section 501(b) including those modifications to the environmental standards as required based on the special physical, hydrological and climatic conditions in Alaska but with the purpose of protecting the environment to an extent equivalent to those standards for the other coal regions.

(f) There is hereby authorized to be appropriated for the purpose of this section \$250,000: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

**STUDY OF RECLAMATION STANDARDS FOR SURFACE MINING
OF OTHER MINERALS
[30 U.S.C. 1299]**

SEC. 709 (a) The Chairman of the Council on Environmental Quality is directed to contract to such extent or in such amounts as are provided in appropriation Acts with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of current and developing technology for surface and open pit mining and reclamation for minerals other than coal designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation for minerals other than coal. The study shall -

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

(2) identify areas where the requirements of this Act cannot be met by current and developing technology;

(3) in those instances describe requirements most comparable to those of this Act which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this Act; and

(4) discuss alternative regulatory mechanisms designed to insure the achievement of the most beneficial postmining land use for areas affected by surface and open pit mining.

Sec. 709

(b) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after the date of enactment of this Act: Provided, That, with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after the date of enactment of this Act: Provided further, That with respect to mining for oil shale and tar sands that a preliminary report shall be submitted no later than twelve months after the date of enactment of this Act.

(c) There are hereby authorized to be appropriated for the purpose of this section \$500,000: Provided, That no new budget authority is authorized to be appropriated for fiscal year 1977.

**INDIAN LANDS
[30 U.S.C. 1300]**

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

(b) The study report required by subsection (a) together with drafts of proposed legislation and the view of each Indian tribe which would be affected shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

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

(d) On and after thirty months from the enactment of this Act, all surface coal mining operations on Indian lands shall comply with requirements at least as stringent as those imposed by sections 507, 508, 509, 510, 515, 516, 517, and 519 of this Act and the Secretary shall incorporate the requirements of such provisions in all existing and new leases issued for coal on Indian lands.

(e) With respect to leases issued after the date of enactment of this Act, the Secretary shall include and enforce terms and conditions in addition to those required by subsections (c) and (d) as may be requested by the Indian tribe in such leases.

(f) Any change required by subsection (c) or (d) of this section in the terms and conditions of any coal lease on Indian lands existing on the date of enactment of this Act, shall require the approval of the Secretary.

Sec. 710

(g) The Secretary shall provide for adequate participation by the various Indian tribes affected in the study authorized in this section and not more than \$700,000 of the funds authorized in section 712(a) shall be reserved for this purpose.

(h) The Secretary shall analyze and make recommendations regarding the jurisdictional status of Indian Lands outside the exterior boundaries of Indian reservations: Provided, That nothing in this Act shall change the existing jurisdictional status of Indian Lands.

(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall --

- (1) develop tribal regulations and program policies with respect to surface mining;
- (2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and
- (3) sponsor employment training and education in the area of mining and mineral resources.

Note: Subsection 710(i) added October 24, 1992.

EXPERIMENTAL PRACTICES

[30 U.S.C. 1301]

SEC. 711. In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, residential, or public use (including recreational facilities), the regulatory authority with approval by the Secretary may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 515 and 516 of this Act. Such departures may be authorized if (i) the experimental practices are potentially more or at least as environmentally protective, during and after mining operations, as those required by promulgated standards; (ii) the mining operations approved for particular land-use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices; and (iii) the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

Sec. 712

**AUTHORIZATION OF APPROPRIATIONS
[30 U.S.C. 1302]**

SEC. 712. There is authorized to be appropriated to the Secretary for the purposes of this Act the following sums; and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 502, 523, and 710, there are authorized to be appropriated to the Secretary of the Interior the sum of \$10,000,000 for the fiscal year ending September 30, 1978, \$25,000,000 for each of the two succeeding fiscal years, and in such fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs;

Note: Section 712(a) amended August 11, 1978.

(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11).

Note: Section 712(b) amended August 11, 1978 and November 5, 1990.

(c) For the implementation and funding of section 705 and for the administrative and other purposes of this Act, except as otherwise provided for in this Act, authorization is provided for the sum of \$20,000,000 for the fiscal year ending September 30, 1978, and \$30,000,000 for each of the two succeeding fiscal years and such funds that are required thereafter.

(d) In order that the implementation of the requirements of this Act may be initiated in a timely and orderly manner, the Secretary is authorized, subject to the approval of the appropriation Committees of the House and of the Senate, to utilize not to exceed \$2,000,000 of the appropriations otherwise available to him for the fiscal year ending September 30, 1977, for the administration and other purposes of the Act.

**COORDINATION OF REGULATORY AND INSPECTION ACTIVITIES
[30 U.S.C. 1303]**

SEC. 713. (a) The President shall, to the extent appropriate, and in keeping with the particular enforcement requirements of each Act referred to herein, insure the coordination of regulatory and inspection activities among the departments, agencies, and instrumentalities to which such activities are assigned by this Act, by the Clean Air Act, by the Water Pollution Control Act, by the Department of Energy Organization Act, and by existing or subsequently enacted Federal mine safety and health laws, except that no such coordination shall be required with respect to mine

Sec. 713

safety and health inspections, advance notice of which is or may be prohibited by existing or subsequently enacted Federal mine safety and health laws.

(b) The President may execute the coordination required by this section by means of an Executive order, or by any other mechanism he determines to be appropriate.

SURFACE OWNER PROTECTION
[30 U.S.C. 1304]

SEC. 714. (a) The provisions of this section shall apply where coal owned by the United States under land the surface rights to which are owned by a surface owner as defined in this section is to be mined by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2(a) of the Mineral Lands Leasing Act of 1920, as amended.

(c) The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent. Valid written consent given by any surface owner prior to the enactment of this Act shall be deemed sufficient for the purposes of complying with this section.

(d) In order to minimize disturbance to surface owners from surface coal mining of Federal coal deposits and to assist in the preparation of comprehensive land-use plans required by section 2(a) of the Mineral Lands Leasing Act of 1920, as amended, the Secretary shall consult with any surface owner whose land is proposed to be included in a leasing tract and shall ask the surface owner to state his preference for or against the offering of the deposit under his land for lease. The Secretary shall, in his discretion but to the maximum extent practicable, refrain from leasing coal deposits for development by methods other than underground mining techniques in those areas where a significant number of surface owners have stated a preference against the offering of the deposits for lease.

(e) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who--

(1) hold legal or equitable title to the land surface;

(2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface coal mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

(3) have met the conditions of paragraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three-year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

Sec. 714

(f) This section shall not apply to Indian lands.

(g) Nothing in this section shall be construed as increasing or diminishing any property rights by the United States or by any other landowner.

FEDERAL LESSEE PROTECTION
[30 U.S.C. 1305]

SEC. 715. In those instances where the coal proposed to be mined by surface coal mining operations is owned by the Federal Government and the surface is subject to a lease or a permit issued by the Federal Government, the application for a permit shall include either:

(1) the written consent of the permittee or lessee of the surface lands involved to enter and commence surface coal mining operations on such land, or in lieu thereof:

(2) evidence of the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the permittee or lessee of the surface lands involved to secure payment of any damages to the surface estate which the operations will cause to the crops, or to the tangible improvements of the permittee or lessee of the surface lands as may be determined by the parties involved, or as determined and fixed in an action brought against the operator or upon the bond in a court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation under this Act.

ALASKA COAL
[30 U.S.C. 1306]

SEC. 716. Nothing in this Act shall be construed as increasing or diminishing the rights of any owner of coal in Alaska to conduct or authorize surface coal mining operations for coal which has been or is hereafter conveyed out of Federal ownership to the State of Alaska or pursuant to the Alaska Native Claims Settlement Act: Provided, That such surface coal mining operations meet the requirements of the Act.

WATER RIGHTS AND REPLACEMENT
[30 U.S.C. 1307]

SEC. 717. (a) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

Sec. 717

(b) The operator of a surface coal mine shall replace 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 or surface source where such supply has been affected by contamination, diminution, or interruption proximately resulting from such surface coal mine operation.

ADVANCE APPROPRIATIONS

[30 U.S.C. 1308]

SEC. 718. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

CERTIFICATION AND TRAINING OF BLASTERS

[30 U.S.C. 1309]

SEC. 719. In accordance with this Act, the Secretary of the Interior (or the approved State regulatory authority as provided for in section 503 of this Act) shall promulgate regulations requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations.

SUBSIDENCE

[30 U.S.C. 1309a]

SEC. 720. (a) Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining

Sec. 720

and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations. (b) Regulations. Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a).

Note: Section 720 added October 24, 1992.

RESEARCH
[30 U.S.C. 1309b]

SEC. 721 The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).

Note: Section 721 added October 24, 1992.

TITLE VIII -- UNIVERSITY COAL RESEARCH LABORATORIES

**ESTABLISHMENT OF UNIVERSITY COAL RESEARCH LABORATORIES
[30 U.S.C. 1311]**

SEC. 801. (a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

Note: Subsection 801(a) amended November 9, 1978.

(b) In making designations under this section, the Secretary shall consider the following criteria:

Note: Subsection 801(b) amended November 9, 1978.

(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves.

Note: Subsection 801(b)(1) amended November 9, 1978.

(2) The institution of higher education shall have experience in coal research, expertise in several areas of coal research, and potential or currently active, outstanding programs in coal research.

(3) The institution of higher education has the capacity to establish and operate the coal laboratories to be assisted under this title.

(c) Not more than one coal laboratory established pursuant to this title shall be located in a single State and at least one coal laboratory shall be established within each of the major coal provinces recognized by the United States Bureau of Mines, including Alaska.

Note: Subsection 801(c) amended May 18, 1992.

(d) The Secretary of Energy shall establish a period, not in excess of ninety days after the date of enactment of this Act, for the submission of applications for designation under this section. Any institution of higher education desiring to be designated under this title shall submit an application to the Secretary of Energy in such form, at such time, and containing or accompanied by such information as the Secretary of Energy may reasonably require. Each application shall --

Sec. 801

Note: Subsection 801(d) amended November 9, 1978.

(1) describe the facilities to be established for coal energy resources and conversion research and research on related environmental problems including facilities for interdisciplinary academic research projects by the combined efforts of specialists such as mining engineers, mineral engineers, geochemists, mineralogists, mineral economists, fuel scientists, combustion engineers, mineral preparation engineers, coal petrographers, geologists, chemical engineers, civil engineers, mechanical engineers, and ecologists;

(2) set forth a program for the establishment of a test laboratory for coal characterization which, in addition, may be used as a site for the exchange of coal research activities by representatives of private industry engaged in coal research and characterization;

(3) set forth a program for providing research and development activities for students engaged in advanced study in any discipline which is related to the development of adequate energy supplies in the United States. The research laboratory shall be associated with an ongoing educational and research program on extraction and utilization of coal.

(e) The Secretary of Energy shall designate the ten institutions of higher education under this section not later than ninety days after the date on which such applications are to be submitted.

Note: Subsection 801(e) amended November 9, 1978.

FINANCIAL ASSISTANCE

[30 U.S.C. 1312]

SEC. 802. (a) The Secretary of Energy is authorized to make grants to any institution of higher education designated under section 801 to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory.

Note: Subsection 802(a) amended November 9, 1978.

(b) Each institution of higher education designated pursuant to section 801 shall submit an application to the Secretary of Energy. Each such application shall --

Note: Subsection 802(b) amended November 9, 1978.

Sec. 802

- (1) set forth the program to be conducted at the coal laboratory which includes the purposes set forth in section 801(d);
- (2) provide assurances that the university will pay from non-Federal sources the remaining costs of carrying out the program set forth;
- (3) provide such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds received under this title;
- (4) provide for making an annual report which shall include a description of the activities conducted at the coal laboratory and an evaluation of the success of such activities, and such other necessary reports in such form and containing such information as the Secretary of Energy may require, and for keeping such records and affording such access thereto as may be necessary to assure the correctness and verification of such reports; and

Note: Subsection 802(b)(4) amended November 9, 1978.

- (5) set forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in subsections 801(d)(1), (2), and (3), and in no case supplant such funds.

LIMITATION ON PAYMENTS

[30 U.S.C. 1313]

SEC. 803. (a) No institutions of higher education may receive more than \$4,000,000 for the construction of its coal research laboratory, including initially installed fixed equipment, nor may it receive more than \$1,500,000 for initially installed movable equipment, nor may it receive more than \$500,000 for new program startup expenses.

(b) No institution of higher education may receive more than \$1,500,000 per year from the Federal Government for operating expenses.

PAYMENTS

[30 U.S.C. 1314]

SEC. 804. (a) From the amounts appropriated pursuant to section 806, the Secretary of Energy shall pay to each institution of higher education having an application approved under this title an amount equal to the Federal share of the cost of carrying out that application. Such payments may be in installments, by way

Sec. 804

of reimbursement, or by way of advance with necessary adjustments on account of underpayments or overpayments.

Note: Subsection 804(a) amended November 9, 1978.

(b) The Federal share of operating expenses for any fiscal year shall not exceed 50 per centum of the cost of the operation of a coal research laboratory.

ADVISORY COUNCIL ON COAL RESEARCH
[30 U.S.C. 1315]

SEC. 805. (a) There is established an Advisory Council on Coal Research which shall be composed of --

(1) the Secretary of Energy, who shall be Chairman;

Note: Subsection 805(a)(1) amended November 9, 1978.

(2) the Director of the United States Bureau of Mines of the Department of the Interior;

Note: Subsection 805(a)(2) amended May 18, 1992.

(3) the President of the National Academy of Sciences;
(4) the President of the National Academy of Engineering;
(5) the Director of the United States Geological Survey; and
(6) six members appointed by the Secretary of Energy from among individuals who, by virtue of experience or training, are knowledgeable in the field of coal research and mining, and who are representatives of institutions of higher education, industrial users of coal and coal-derived fuels, the coal industry, mine workers, nonindustrial consumer groups, and institutions concerned with the preservation of the environment.

Note: Subsection 805(a)(6) amended November 9, 1978.

(b) The Advisory Council shall advise the Secretary of Energy with respect to the general administration of this title, and furnish such additional advice as he may request.

Note: Subsection 805(b) amended November 9, 1978.

(c) The Advisory Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this

Sec. 805

title) to the President not later than December 31 of each calendar year. The President shall transmit each such report to the Congress.

(d)(1) Members of the Council who are not regular officers or employees of the United States Government shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Secretary of Energy but not exceeding the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

Note: Subsection 805(d)(1) amended November 9, 1978.

(2) Members of the Council who are officers or employees of the Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties on the Council.

(e) Whenever a member of the Council appointed under clauses (1) through (5) is unable to attend a meeting, that member shall appoint an appropriate alternate to represent him for that meeting.

AUTHORIZATION OF APPROPRIATIONS
[30 U.S.C. 1316]

SEC. 806. (a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed \$30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed \$7,500,000 for the fiscal year 1980 and for each fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed \$6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed \$2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title.

Note: Subsection 806 amended November 9, 1978.

TITLE IX -- ENERGY RESOURCE GRADUATE FELLOWSHIPS

PROGRAM AUTHORIZED
[30 U.S.C. 1321]

SEC. 901. (a) The Secretary of Energy is authorized to award under the provisions of this title not to exceed one thousand fellowships for the fiscal year ending September 30, 1979, and each of the five succeeding fiscal years. Fellowships shall be awarded under the provisions of this title for graduate study and research in those areas of applied science and engineering that are related to the production, conservation, and utilization of fuels and energy. Fellowships shall be awarded to students in programs leading to master's degrees. Such fellowships may be awarded for graduate study and research at any institution of higher education, library, archive, or any other research center approved by the Secretary after consultation with the Secretary of Education.

Note: Subsection 901(a) amended August 4, 1977, and October 17, 1979.

(b) Such fellowships shall be awarded for such periods as the Secretary of Energy may determine, but not to exceed two years.

Note: Subsection 901(b) amended August 4, 1977.

(c) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Secretary of Energy is authorized to award fellowships equal to the number previously awarded during any fiscal year under this title but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of graduate work or research, not in excess of the remainder of the period for which the fellowship which it replaces was awarded as the Secretary of Energy may determine.

Note: Subsection 901(c) amended August 4, 1977.

AWARDING OF FELLOWSHIPS
[30 U.S.C. 1322]

SEC. 902. Recipients of fellowships under this title shall be -
(a) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, and

Sec. 902

(b) persons who plan a career in the field of energy resources, production, or utilization.

DISTRIBUTION OF FELLOWSHIPS
[30 U.S.C. 1323]

SEC. 903. In awarding fellowships under the provisions of this title, the Secretary of Energy shall endeavor to provide equitable distribution of such fellowships throughout the Nation, except that the Secretary of Energy shall give special attention to institutions of higher education, libraries, archives or other research centers which have a demonstrated capacity to offer courses of study or research in the field of energy resources and conservation and conversion and related disciplines. In carrying out his responsibilities under this section, the Secretary shall take into consideration the projected need for highly trained engineers and scientists in the field of energy sources.

Note: Subsection 903 amended August 4, 1977.

STIPENDS AND INSTITUTIONS OF HIGHER EDUCATION ALLOWANCES
[30 U.S.C. 1324]

SEC. 904. (a) Each person awarded a fellowship under this title shall receive a stipend of not more than \$10,000 for each academic year of study. An additional amount of \$500 for each such calendar year of study shall be paid to such person on account of each of his dependents.

(b) In addition to the amount paid to such person pursuant to subsection (a) there shall be paid to the institution of higher education at which each such person is pursuing his course of study, 100 per centum of the amount paid to such person less the amount paid on account of such person's dependents, to such person less any amount charged such person for tuition.

LIMITATION
[30 U.S.C. 1325]

SEC. 905. No fellowship shall be awarded under this title for study at a school or department of divinity. For the purpose of this section, the term "school or department of divinity" means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them

Sec. 905

to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

FELLOWSHIP CONDITIONS
[30 U.S.C. 1326]

SEC. 906. (a) A person awarded a fellowship under the provisions of this title shall continue to receive the payments provided in section 904(a) only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment in teaching, research, or similar activities, approved by the Secretary of Energy.

Note: Subsection 906(a) amended August 4, 1977.

(b) The Secretary of Energy shall require reports containing such information in such forms and to be filed at such times as he determines necessary from each person awarded a fellowship under the provisions of this title. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary of Energy stating that such person is making satisfactory progress in, and is devoting essentially full time to the research for which the fellowship was awarded.

Note: Subsection 906(b) amended August 4, 1977.

APPROPRIATIONS AUTHORIZED
[30 U.S.C. 1327]

SEC. 907. There are authorized to be appropriated \$11,000,000 for the fiscal year ending September 30, 1979, and for each of the five succeeding fiscal years. For payments for the initial awarding of fellowships awarded under this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the five succeeding fiscal years, such sums as may be necessary in order that fellowships already awarded might be completed.

Sec. 908

**RESEARCH AND DEMONSTRATION PROJECTS OF ALTERNATIVE COAL
MINING TECHNOLOGIES**
[30 U.S.C. 1328]

SEC. 908. (a) The Secretary of the Interior is authorized to conduct and promote the coordination and acceleration of, research, studies, surveys, experiments, demonstration projects, and training relating to --

Note: Subsection 908(a) amended August 4, 1977 and September 10, 1982.

(1) the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep seams; and

(2) safety and health in the application of such technologies, methods, and means.

(b) In conducting the activities authorized by this section, the Secretary of the Interior may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

Note: Subsection 908(b) amended August 4, 1977 and September 10, 1982.

(c) There are authorized to be appropriated to the Secretary of the Interior, to carry out the purposes of this section, \$35,000,000 for each fiscal year beginning with the fiscal year 1979, and for each year thereafter for the next four years.

Note: Subsection 908(c) amended August 4, 1977 and September 10, 1982.

(d) At least sixty days before any funds are obligated for any research studies, surveys, experiments or demonstration projects to be conducted or financed under this Act in any fiscal year, the Secretary of the Interior in consultation with the heads of other Federal agencies having the authority to conduct or finance such projects, shall determine and publish such determinations in the Federal Register that such projects are not being conducted or financed by any other Federal agency. On December 31 of each calendar year, the Secretary shall report to the Congress on the research studies, surveys, experiments or demonstration projects, conducted or financed under this Act, including, but not limited to, a statement of the nature and purpose of each project, the Federal cost thereof, the identity and affiliation of the persons engaged in such projects, the expected completion date of the projects and the relationship of the projects to other such projects of a similar nature.

Note: Subsection 908(d) amended August 4, 1977 and September 10, 1982.

Sec. 908

(e) Subject to the patent provisions of section 306(d) of this Act, all information and data resulting from any research studies, surveys, experiments, or demonstration projects conducted or financed under this Act shall be promptly made available to the public.

ABANDONED MINE RECLAMATION ACT OF 1990
[Affects Title IV and Section 507(a) and 712(b) of SMCRA]

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1991**

An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991. Pub. L. 101-508 (H.R. 5835); 104 STAT. 1388, 1388-289 through 1388-299 (November 5, 1990).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

[104 STAT. 1388]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

TITLE VI - ENERGY AND ENVIRONMENTAL PROGRAMS

Subtitle A - Abandoned Mine Reclamation

[104 STAT. 1388-289]

SEC. 6001. SHORT TITLE.

This subtitle may be cited as the "Abandoned Mine Reclamation Act of 1990".

SEC. 6002. ABANDONED MINE RECLAMATION FUND.

(a) SOURCES OF DEPOSITS.-Section 401(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(b)) is amended as follows:

(1) Amend paragraph (1) to read as follows:

[104 STAT. 1388-290]

(1) the reclamation fees levied under section 402;

(2) Strike "and" at the end of paragraph (3); strike the period at the end of paragraph (4) and insert "; and"; and add the following new paragraph at the end: "(5) interest credited to the fund under subsection (e)."

(b) USE OF MONEY.-Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended as follows:

(1) In paragraph (1), strike "402(g)(2)" and insert "402(g)(1)".

(2) Amend paragraph (2) to read as follows:

"(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;"

(3) In paragraph (6), strike "by contract" and insert "conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986" after "projects".

(4) Strike "and" at the end of paragraph (9).

(5) Strike paragraph (10) and insert the following:

"(10) for use under section 411;

"(11) for the purpose of section 507(c), except that not more than \$ 10,000,000 shall annually be available for such purpose; and

"(12) all other necessary expenses to accomplish the purposes of this title."

(c) INTEREST.-Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new subsection at the end:

"(e) INTEREST.-The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund."

SEC. 6003. RECLAMATION FEES.

(a) DUE DATE.-Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "fifteen years after the date of enactment of this Act unless extended by an Act of Congress" and inserting "September 30, 1995".

(b) STATEMENT.-Section 402(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(c)) is amended by adding the following at the end thereof: "Such statement shall include an identification of the permittee of the surface coal mining operation, any operator in addition to the permittee, the owner of the coal, the preparation plant, tippie, or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 506 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database."

[104 STAT. 1388-291]

(c) AUDITS.-Section 402(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(d)) is amended by inserting "(1)" after "(d)" and by adding the following at the end thereof;

"(2) The Secretary shall conduct such audits of coal production and the payment of fees under this title as may be necessary to ensure full compliance with the provisions of this title. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this title. The Secretary may at any time conduct audits of any surface coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this title."

(d) NOTICE.-Section 402(f) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(f)) is amended by adding the following at the end thereof: "Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986."

SEC. 6004. ALLOCATION OF FUNDS.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended to read as follows:

"(g) ALLOCATION OF FUNDS.-(1) Moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this title as follows:

"(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following:

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

"(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following:

"(i) an approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

"(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

"(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

[104 STAT. 1388-292]

"(2) 20 percent of the amounts available in the fund in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(D)), shall be allocated to the Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

"(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraphs (2) and (5) are authorized to be expended by the Secretary for any of the following:

"(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

"(B) For the purpose of section 410 (relating to emergencies).

"(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands and waters pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

"(D) For the administration of this title by the Secretary.

"(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which are mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

"(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

"(i) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for a State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(ii) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date of enactment of this paragraph, and that the surety of such mining operator became insolvent during such period, and as of the date of enactment of this paragraph, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

[104 STAT. 1388-293]

"(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

"(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

"(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

"(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either-

"(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after September 30, 1995, or

"(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

"(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) The plan shall include, but shall not be limited to, each of the following:

"(i) An identification of the qualified hydrologic unit.

[104 STAT. 1388-294]

"(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

"(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit.

"(v) The cost of undertaking the proposed abatement and treatment measures.

"(vi) An identification of existing and proposed sources of funding for such measures.

"(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

"(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) For purposes of this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit-

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

"(ii) which contains lands and waters which are-

"(I) eligible pursuant to section 404 and include any of the priorities stated in paragraph (1), (2), or (3) of section 403(a); and

"(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

"(8) Of the funds available for expenditure under this subsection in any fiscal year, the Secretary shall allocate annually not less than \$ 2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and eligible lands and waters pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a)."

SEC. 6005. FUND OBJECTIVES.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended as follows:

(1) Insert "(a) PRIORITIES.-" after "SEC. 403."

(2) Insert ", except as provided for under section 411," after "title".

(3) Add at the end the following new subsections:

"(b) UTILITIES AND OTHER FACILITIES.- (1) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to

such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing,

[104 STAT. 1388-295]

constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

"(2) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (1) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977.

"(c) INVENTORY .-For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this title shall be so noted on the inventory under standardized procedures established by the Secretary."

SEC. 6006. ELIGIBLE LANDS AND WATERS.

Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by inserting ", except as provided for under section 411" after "processes", and by adding the following at the end thereof: "For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(1), and section 409."

SEC. 6007. STATE RECLAMATION PROGRAMS.

Section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235) is amended by adding the following at the end thereof:

"(1) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional

misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence."

SEC. 6008. CLARIFICATION.

Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by striking "experimental".

[104 STAT. 1288-296]

SEC. 6009. VOIDS AND TUNNELS.

Section 409 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239) is amended-

(1) in subsection (a) by striking "chairman of any tribe" and inserting in lieu thereof "the governing body of an Indian tribe";

(2) in subsection (b), by striking "or Indian reservations under the provisions of subsection 402(g)" and inserting "or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g)"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

"(2) The provisions of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

"(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).

SEC. 6010. CERTIFICATION.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended as follows:

(1) Redesignate sections 411, 412, and 413 as sections 412, 413, and 414, respectively.

(2) Insert after section 410 the following new section:

"SEC. 411. CERTIFICATION.

"(a) CERTIFICATION OF COMPLETION OF COAL RECLAMATION.-The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 may certify to the Secretary that all of the priorities stated in section 403(a) for eligible lands and waters pursuant to section 404 have been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

"(b) ELIGIBLE LANDS, WATERS, AND FACILITIES.-If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands and waters for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those-

"(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

"(2) for which there is no continuing reclamation responsibility under State or other Federal laws. In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

[104 STAT. 1388-297]

"(c) PRIORITIES.-Expenditures of moneys for lands, waters, and facilities referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

"(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

"(2) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

"(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

"(d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.-Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

"(e) UTILITIES AND OTHER FACILITIES.-Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (c).

"(f) Notwithstanding subsection (e), where the Secretary has concurred in the certification referenced in subsection (a) and where the Governor of a State or the head of a governing body of an Indian tribe determines there is a need for activities or construction of specific public facilities related to the coal or minerals industry in States impacted by coal or minerals development and the Secretary concurs in such need, then the State or Indian tribe, as the case may be, may use annual grants made available under section 402(g)(1) to carry out such activities or construction.

"(g) APPLICATION OF OTHER PROVISIONS.-The provisions of sections 407 and 408 shall apply to subsections (a) through (e) of this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply."

SEC. 6011. SMALL OPERATOR ASSISTANCE.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended by striking "100,000" and inserting "300,000".

SEC. 6012. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.-The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) is amended as follows:

(1) Redesignate the items relating to sections 411, 412, and 413 as items 412, 413, and 414, respectively.

(2) Insert after the item relating to section 410 the following:

[104 STAT. 1388-298]

Sec. 411. Certification.

(b) REFERENCE.-Section 712 (b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended to read as follows:

"(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11)."

(c) REPEAL.-Section 406(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(i)) is repealed.

(d) TECHNICAL CORRECTIONS.-The following provisions of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended as follows:

(1) Section 405(a) is amended by striking out "perparation" and inserting "preparation".

(2) Section 405(h) is amended by striking out "Upon approved" and inserting "Upon approval".

(3) Section 406(a) is amended by striking out "including owners" and inserting "(including owners)".

(4) Section 407(a)(4) is amended by striking out the period and inserting a semicolon.

(5) Section 407(a) is amended by striking out "Then" and inserting "then".

(6) Section 407(e) is amended by striking out "paragraph (1), of this subsection" and inserting "paragraph (1) of subsection (c)".

(7) Section 407(g)(2) is amended by striking out "the use of" and inserting "the use or".

SEC. 6013. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect the certifications made by the State of Wyoming, the State of Montana, and the State of Louisiana to the Secretary of the Interior prior to the date of enactment of this subtitle that such State has completed the reclamation of eligible abandoned coal mine lands.

SEC. 6014. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect at the beginning of the first fiscal year immediately following the fiscal year in which this subtitle is enacted.

ENERGY POLICY ACT OF 1992

An Act to provide for improved energy efficiency.

Pub. L. 102-486 (H.R. 776); 106 STAT. 2776, 3037, 3046, 3056, 3102-3106 and 3112-3113 (October 24, 1992)

To provide for improved energy efficiency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short Title. This Act may be cited as the "Energy Policy Act of 1992".

[106 STAT. 3037]

Sec. 19143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) In general. The Internal Revenue Code of 1986 is amended by adding at the end of the following new subtitle:

[106 STAT. 3046]

"SEC. 9705. TRANSFERS.

"(a) Transfer of Assets From 1950 UMWA Pension Plan. --

"(1) In general. From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund --

"(A) \$ 70,000,000 on February 1, 1993,

"(B) \$ 70,000,000 on October 1, 1993, and

"(C) \$ 70,000,000 on October 1, 1994.

"(2) Reservation. Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate \$ 210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) Use of funds. Amounts transferred to the Combined Fund under paragraph (1) shall --

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available. Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) Tax treatment; validity of transfer. --

"(A) No deduction. No deduction shall be allowed under this title with respect to any transfer pursuant to

[106 STAT. 3047]

paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) Other tax provisions. Any transfer pursuant to paragraph (1) --

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) Treatment of transfer. Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) Transfers From Abandoned Mine Reclamation Fund --

"(1) In general. The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) Use of funds. Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

[106 STAT. 3056]

"SEC. 9722. SHAM TRANSACTIONS.

If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) Amendments to Surface Mining Act --

(1) Extension of fee program. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) Transfer to fund. Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) Transfer of Funds to Combined Fund.

"(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of --

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than \$ 70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) Conforming amendments. (A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

[106 STAT. 3102]

SEC. 2503. COAL REMINING.

(a) Modification of Prohibition. Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) Modification of Prohibition. After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for reining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(b)(20)(B) shall terminate on September 30, 2004."

(b) Period of Responsibility. Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for reining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding,

fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation,

[106 STAT. 3103]

or other work in order to assure compliance with the applicable standards."

(c) Definitions. Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4)."

(d) Eligibility. Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410."

(e) Abandoned Coal Refuse Sites.

(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations. (3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515

and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

[106 STAT. 3104]

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2504. SURFACE MINING ACT IMPLEMENTATION.

(a) Subsidence. (1) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

SEC. 720. SUBSIDENCE.

"(a) Requirements. Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

"(b) Regulations. Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a)."

(2)(A) The Secretary of the Interior shall review existing requirements related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Such review shall consider the following with respect to subsidence: notification; mitigation; coordination; requirements of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act; and the status of Federal, State and local laws, as well as common law, with respect to prevention or mitigation of damage from subsidence.

(B) The review shall also include a survey of the status of Federal, State, and local laws, as well as common law, with respect to the responsibilities of the relevant parties for costs resulting from damage due to subsidence or from mitigation efforts undertaken to prevent damage from subsidence.

(C) In conducting the review, the Secretary of the Interior shall consult with the Secretary of Transportation, the Attorney

[106 STAT. 3105]

General of the United States, appropriate officials of relevant States, and owners and representatives of natural gas and petroleum pipeline companies and coal companies.

(D) The Secretary of the Interior shall submit a report detailing the results of the review to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within 18 months of enactment of this Act. Where appropriate, the Secretary of the Interior shall commence a rulemaking to address any deficiencies in existing law determined in the review under subparagraph (A) regarding notification, coordination and mitigation.

(b) Valid Existing Rights. During the 1-year period following the enactment of this Act, in administering the provisions of the Surface Mining Control and Reclamation Act of 1977 regarding valid existing rights, the Secretary of the Interior shall continue in force and effect the policies of the Office of Surface Mining as set forth in the November 10, 1986 Statement of Policy published in 51 Federal Register 41952.

(c) Research. (1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumber the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. RESEARCH.

"The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that

purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6)."

(d) Coal Formations.

(1) In furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall, upon application by a State, enter into a cooperative agreement with any such State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State. Any such cooperative agreement shall not

[106 STAT. 3106]

be subject to review or approval by the Appalachian Regional Development Commission.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed \$ 500,000 annually,".

(e) Technical Amendment. Section 403(b)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(b)(2)) is amended by inserting ", or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B)" after "1977" in each instance such date appears.

[106 STAT. 3112]

SEC. 2513. ASSISTANCE TO SMALL COAL OPERATORS.

(a) Assistance. Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c) Assistance to Small Coal Operators. (1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection."

(b) Reimbursement of Costs. Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) Reimbursement of Costs. A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit."

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) Grants. The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal

[106 STAT. 3113]

mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall --

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources."

SEC. 2515. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2004, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)."

**Preamble
AMENDING ACTS**

SUPPLEMENTAL APPROPRIATIONS ACT OF 1978.

An Act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; Pub. L. 95-240 (H.R. 9375); 92 STAT. 107, 109 (March 7, 1978).

[92 STAT. 107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations Act, 1978") for the fiscal year ending September 30, 1978, and for other purposes, namely:

* * *

[92 STAT. 109]

* * * Provided, That none of the funds provided in this Act for the Office of Surface Mining Reclamation and Enforcement shall be available for the compensation of Executive Level IV or higher positions: Provided further, That section 201(b) of the Surface Mining Control and Reclamation Act of 1977 (91 STAT. 445) is amended to delete the roman numeral "IV" in the first sentence and substitute the roman numeral "V" in lieu thereof.

* * *

REORGANIZATION PLAN NO. 2 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 23, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code. 92 STAT. 3783. (May 23, 1978).

PART I. OFFICE OF PERSONNEL MANAGEMENT

* * *

[92 STAT. 3783]

Section 102. Transfer of Functions. Except as otherwise specified in this Plan, all functions vested by statute in the United States Civil Service Commission, or the Chairman of said Commission, or the Boards of Examiners established by 5 U.S.C. 1105 are hereby transferred to the Director of the Office of Personnel Management.

* * *

PAPERWORK REDUCTION ACT OF 1980

To reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policy making, and for other purposes; Pub. L. 96-511; 94 STAT. 2812, 2826 (December 11, 1980).

* * *

[96 STAT. 2826]

Sec. 4 (b) Section 201(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1211) is repealed.

* * *

**STATE MINING AND MINERAL RESOURCES
RESEARCH INSTITUTES**

An Act to establish a State Mining and Mineral Resources Research Institute program, and for other purposes; Pub. L. 98-409 (H.R. 4214); 98 STAT. 1536-1542 (August 29, 1984).

[98 STAT. 1536]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

Section 1. (a)(1) There are authorized to be appropriated to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") funds adequate to provide for each participating State \$300,000 for the fiscal year ending September 30, 1985, and \$400,000 to each participating State for each fiscal year thereafter for a total of five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute or center (hereafter in this Act referred to as the "institute") at one public college or university in the State which meets the eligibility criteria established in section 10.

(2)(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than one and one-half non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1985, and September 30, 1986, and no less than two non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1987, September 30, 1988, and September 30, 1989.

(B) If there is more than one such eligible college or university in a State, funds appropriated under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be granted to one such college or university designated by the Government of the State.

(C) Where a State does not have a public college or university eligible under section 10, the Committee on Mining and Mineral Resources Research established in section 9 (hereafter in this Act referred to as the "Committee") may allocate the State's allotment to one private college or university which it determines to be eligible under such section.

(b) It shall be the duty of each institute to plan and conduct, or arrange for a component or components of the college or university with which it is affiliated to conduct research, investigations, demonstrations, and experiments of either, or both, a basic or practical nature in relation to mining and mineral resources, and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. The subject of such research, investigation, demonstration, experiment, and training may include exploration; extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available

supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other

[98 STAT. 1537]

aspects of mining, mineral resources, and mineral reclamation. Such research, investigation, demonstration, experiment, and training shall consider the interrelationship with the natural environment, the varying conditions and needs of the respective States, and mining and mineral resources research projects being conducted by agencies of the Federal and State governments and other institutes.

RESEARCH FUNDS TO INSTITUTES

Sec. 2. (a) There is authorized to be appropriated to the Secretary \$10,000,000 for the fiscal year ending September 30, 1985. This amount shall be increased by \$1,000,000 for each year thereafter for four additional years, which shall remain available until expended. Such funds when appropriated shall be made available to institutes to meet the necessary expenses for purposes of --

(1) specific mineral research and demonstration projects of broad application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes; and

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which are deemed by the Committee to be desirable and are not otherwise being studied.

(b) Each application for funds under subsection (a) of this section shall state, among other things, the nature of the project to be undertaken; the period during which it will be pursued; the qualifications of the personnel who will direct and conduct it; the estimated costs; the importance of the project to the Nation, region, or State concerned; its relation to other known research projects theretofore pursued or being pursued; the extent to which the proposed project will provide opportunity for the training of mining and mineral engineers and scientists; and the extent of participation by nongovernmental sources in the project.

(c) The Committee shall review all such funding applications and recommend to the Secretary the use of the institutes, insofar as practicable, to perform special research. Recommendations shall be made without regard to the race, religion, or sex of the personnel who will conduct and direct the research, and on the basis of the facilities available in relation to the particular needs of the research project; special geographic, geologic, or climatic conditions within the immediate vicinity of the institute; any other special requirements of the research project; and the extent to which such project will provide an opportunity for training individuals as mineral engineers and scientists. The Committee shall recommend to the Secretary the designation and utilization of such portions of the funds authorized to be appropriated by this section as it deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) No funds shall be made available under subsection (a) of this section except for a project approved by the Secretary and all funds shall be made available upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

(e) No funds made available under this section shall be applied to the acquisition by purchase or lease of any land or interests therein,

[98 STAT. 1538]

or the rental, purchase, construction, preservation, or repair of any building.

FUNDING CRITERIA

Sec. 3. (a) Funds available to institutes under sections 1 and 2 of this Act shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall --

(1) set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields;

(2) set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this Act, and in no case supplant such funds; and

(3) have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this Act during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

If any of the funds received by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, such funds shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) The institutes are authorized and encouraged to plan and conduct programs under this Act in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved. Moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

Sec. 4. (a) The Secretary shall administer this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be

necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this Act, shall participate in coordinating research initiated under this Act by the institutes, shall indicate to them such lines of inquiry that seem most important, and shall encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishment.

(b) On or before the first day of July in each year beginning after the date of enactment of this Act, the Secretary shall ascertain

[98 STAT. 1539]

whether the requirements of section 3(a) have been met as to each institute and State.

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

AUTONOMY

Sec. 5. Nothing in this Act shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be constructed to authorize Federal control or direction of education at any college or university.

MISCELLANEOUS PROVISIONS

Sec. 6. (a) The Secretary shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources, of State and local governments, and of private institutions and individuals to assure that the programs authorized by this Act will supplement and not be redundant with respect to established mining and minerals research programs, and to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and mineral research, with due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this Act, in addition to any direct publication of information by the institutes themselves.

(b) Nothing in this Act is intended to give or shall be construed as giving the Secretary any authority over mining and mineral resources research conducted by any agency of the Federal Government, or as repealing or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with regard to mining and mineral resources.

(c) No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act, unless all uses, products, processes, patents, and other developments resulting therefrom, with such exception or limitation, if any, as the Secretary may find necessary in the public interest, are made available promptly to the general public. Patentable inventions shall be governed by the provisions of Public Law 96-517. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

(d) There are authorized to be appropriated after September 30, 1984, such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under this Act and for administrative planning and direction, but such appropriations shall not exceed \$1,000,000 in any single fiscal year.

[98 STAT. 1540]

CENTER FOR CATALOGING

Sec. 7. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as may make such information available.

INTERAGENCY COOPERATION

Sec. 8. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include --

- (1) continuing review of the adequacy of the Government-wide program in mining and mineral resources research;
- (2) identification and elimination of duplication and overlap between agency programs;
- (3) identification of technical needs in various mining and mineral resources research categories;
- (4) recommendations with respect to allocation of technical effort among Federal agencies;
- (5) review of technical manpower needs, and findings concerning management policies to improve the quality of the Government-wide research effort; and
- (6) actions to facilitate interagency communication at management levels.

COMMITTEE

Sec. 9. (a) The Secretary shall appoint a Committee on Mining and Mineral Resources Research composed of --

- (1) the Assistant Secretary of the Interior responsible for minerals and mining research, or his delegate;
- (2) the Director, Bureau of Mines, or his delegate;
- (3) the Director, United States Geological Survey, or his delegate;
- (4) the Director of the National Science Foundation, or his delegate;
- (5) the President, National Academy of Sciences, or his delegate;
- (6) the President, National Academy of Engineering, or his delegate; and
- (7) not more than six other persons who are knowledgeable in the fields of mining and mineral resources research, including two university administrators involved in the conduct of programs authorized by section 301 of the Surface Mining Control and Reclamation Act of 1977, two representatives from the mining industry, a working miner, and a representative from the conservation community. In making these six appointments, the Secretary shall consult with interested groups.

[98 STAT. 1541]

(b) The Committee shall consult with, and make recommendations to, the Secretary on all matters relating to mining and mineral resources research and the determinations that are required to be made under this Act. The Secretary shall consult with, and consider recommendations of, such Committee in such matters.

(c) Committee members, other than officers or employees of Federal, State, or local governments, shall be for each day (including travel time) during which they are performing Committee business, paid at a rate fixed by the Secretary but not excess of the daily equivalent of the maximum rate of pay for grade GS-18 of the General Schedule under section 5332 of title 5 of the United States Code, and shall be fully reimbursed for travel, subsistence, and related expenses.

(d) The Committee shall be jointly chaired by the Assistant Secretary of the Interior responsible for minerals and mining and a person to be elected by the Committee from among the members referred to in paragraphs (5), (6), and (7) of subsection (a) of this section.

(e) The Committee shall develop a national plan for research in mining and mineral resources, considering ongoing efforts in the universities, the Federal Government, and the private sector, and shall formulate and recommend a program to implement the plan utilizing resources provided for under this Act. The Committee shall submit such plan to the Secretary, the President, and the Congress on or before March 1, 1986, and shall update the plan annually thereafter.

(f) Section 10 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

ELIGIBILITY CRITERIA

Sec. 10. (a) The Committee shall determine the eligibility of a college or university to participate as a mining and mineral resources research institute under this Act using criteria which include --

(1) the presence of a substantial program of graduate instruction and research in mining or mineral extraction or closely related fields which has a demonstrated history of achievement;

(2) evidence of institutional commitment for the purposes of this Act; and

(3) evidence that such institution has or can obtain significant industrial cooperation in activities within the scope of this Act; and

[98 STAT. 1542]

(4) the presence of an engineering program in mining or minerals extraction that is accredited by the Accreditation Board for Engineering and Technology, or evidence of equivalent institutional capability as determined by the Committee.

(b) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of this Act, have a mining or mineral resources research institute program which has been found to be eligible pursuant to title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) shall continue to be eligible pursuant to this Act for a period of four fiscal years beginning October 1, 1984.

**MINING AND MINERAL RESEARCH INSTITUTE
AMENDMENTS OF 1988**

An Act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; Pub. L. 100-483 (H.R. 3977); 102 STAT. 2339, 2340, 2341 (October 12, 1988)

[102 STAT. 2339]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. REFERENCES.

Any references in this Act to the "Mining and Mineral Resources Research Institute Act of 1984" is a reference to the Act of August 29, 1984, entitled "To establish a State Mining and Mineral Resources Research Institute program, and for other purposes" (30 U.S.C. 1221 through 1230).

**Sec. 2. ALLOTMENT OF GRANTS AUTHORIZATION PERIOD;
LIMITATION.**

Section 1(a)(1) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(1)) is amended by striking "\$300,000 for the fiscal year ending September 30, 1985, and "\$400,000 to each participating State for each fiscal year thereafter for a total of five years" and inserting in lieu thereof the following: "\$400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994".

Sec. 3. MATCHING FUNDS REQUIREMENT.

Section 1(a)(2)(A) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(2)(A)) is amended to read as follows:

"(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar."

Sec. 4. RESEARCH SUBJECT.

The second sentence of section 1(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(b)) is amended by inserting "fuel and nonfuel" immediately after "production of".

Sec. 5. RESEARCH GRANTS AUTHORIZATION PERIOD.

Section 2(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 122(a)) is amended as follows:

(1) The first sentence is amended to read as follows: "There is authorized to be appropriated to the Secretary not more than \$15,000,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, which shall remain available until expended."

(2) The second sentence is deleted.

(3) In the third sentence, strike "institutes" and insert "an institute or to institutes participating in a generic mineral technology center".

[102 STAT. 2340]

Sec. 6. ADMINISTRATION

The first sentence of section 4(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1224(a)) is amended by inserting ", acting through the Director of the Bureau of Mines," immediately after "The Secretary".

Sec. 7. ADMINISTRATIVE EXPENSES.

Section 6(d) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1226(d)) is amended to read as follows:

"(d)(1) There is authorized to be appropriated to the Secretary \$450,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to administer this Act. No funds may be withheld by the Secretary for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.

"(2) There are authorized to be appropriated to the Secretary such sums as are necessary for the printing and publishing of the results of activities carried out by institutes and generic mineral technology centers under this Act, but such appropriations shall not exceed \$550,000 in any single fiscal year."

Sec. 8. ADVISORY COMMITTEE

Section 9(a)(7) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(a)(7)) is amended by striking "six" in the first and last sentences and inserting in lieu thereof "7", and by striking "section 301 of the Surface Mining Control and Reclamation Act of 1977, two" and inserting in lieu thereof "this Act, 3".

Sec. 9. PLAN UPDATE.

Section 9(e) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(e)) is amended by striking "update the plan annually thereafter" in the second sentence and inserting in lieu thereof "submit an annual update of such plan by January 15 of each calendar year".

Sec. 10. ELIGIBILITY.

Section 10(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230(b)) is amended to read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of the Mining and Mineral Resources Research Institute Amendments of 1988, have a mining or mineral resources research institute program which has been found to be eligible subject to review at least once during the period authorized by the Mining and Mineral Resources Research Institute Amendments of 1988, under the provisions of subsection (a). The results of such review shall be submitted by January 15, 1992, pursuant to section 11(a)(2) of the Mining and Mineral Resources Research Institute Amendments of 1988.

"(2) Generic mineral technology centers established by the Secretary under this Act are to be composed of institutes eligible pursuant to subsection (a). Existing generic mineral technology centers shall continue to be eligible under this Act subject to at least one review prior to January 15, 1992, pursuant to section 11(a)(3) of the Mining and Mineral Resources Research Institute Amendments of 1988."

[102 STAT. 2341]

SEC. 11. REPORTS.

(a) **REPORT ON PROGRAMS.** - The Committee on Mining and Mineral Resources Research established under section 9 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229) shall submit a report by January 15, 1992, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the programs established under that Act. Such report may be submitted in conjunction with the annual plan update required by section 9(e) of such Act (30 U.S.C. 1229(e)) and shall include, but not necessarily be limited to, each of the following:

(1) A review of the activities of the institutes and generic mineral technology centers established under the Mining and Mineral Resources Research Institute Act of 1984.

(2) A review of each institute's eligibility pursuant to section 10 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230).

(3) A review of each generic mineral technology center's eligibility. In conducting such review the committee shall consider the following criteria:

(A) Relevance and effectiveness of the research conducted.

(B) Need for further research in the generic area.

(4) Recommendations on establishing a mechanism by which new generic mineral technology centers can be established and existing centers can be phased-out or consolidated upon completion of their mission.

(b) The committee shall submit a proposal to establish a Generic Mineral Technology Center on Strategic and Critical Minerals to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate by January 15, 1990.

Sec. 12. SHORT TITLE OF ACT.

The Mining and Mineral Resources Research Institute Act of 1984 is amended by inserting the following new section after section 10.

"This Act may be cited as the Mining and Mineral Resources Research Institute Act of 1984."

Sec. 13. SHORT TITLE OF AMENDMENTS.

This Act may be cited as the Mining and Mineral Resources Research Institute Amendments of 1988.

NATIONAL GEOLOGIC MAPPING ACT OF 1992

**An Act to enhance geologic mapping of the United States, and for other purposes;
Pub. L. 102-285 (H.R. 2763); 106 STAT. 166, 172 (May 18, 1992)**

[106 STAT. 166]

Be it enacted by the Senate and House of Representatives of the United States of
America in Congress assembled,

[106 STAT. 172]

Sec. 10.

(b) The Bureau of Mines established by the Act of May 16, 1910 (30 U.S.C. 1), is designated as and shall hereafter be known as the United States Bureau of Mines.

STRATEGIC AND CRITICAL MINERALS ACT OF 1990

An Act to amend the Mining and Minerals Resources Research Institute Act of 1984, and for other purposes; Pub. L. 101-498 (H.R. 4111); 104 STAT. 1207, 1208 (November 2, 1990)

[104 STAT. 1207]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. SHORT TITLE.

This Act may be cited as the "Strategic and Critical Minerals Act of 1990".

Sec. 2. ESTABLISHMENT OF GENERIC CENTER.

The Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C.1221 and following) is amended by adding the following new section at the end thereof:

"Sec. 12. STRATEGIC RESOURCES GENERIC MINERAL TECHNOLOGY CENTER.

"(a) ESTABLISHMENT. - The Secretary of the Interior is authorized and directed to establish a Strategic Resources Mineral Technology Center (hereinafter referred to as the 'center') for the purpose of improving existing, and developing new, technologies that will decrease the dependence of the United States on supplies of strategic and critical minerals.

"(b) FUNCTIONS - The center shall -

"(1) provide for studies and technology development in the areas of mineral extraction and refining processes, product substitution and conservation of mineral resources through recycling and advanced processing and fabrication methods;

"(2) identify new deposits of strategic and critical mineral resources; and

"(3) facilitate the transfer of information, studies, and technologies developed by the center to the private sector.

"(c) CRITERIA - The Secretary shall establish the center referred to in subsection (a) at a university that -

"(1) does not currently host a generic mineral technology center;

"(2) has established advanced degree programs in geology and geological engineering, and metallurgical and mining engineering;

"(3) has expertise in materials and advanced processing research; and

"(4) is located west of the 100th meridian.

[104 STAT. 1208]

"(d) AUTHORIZATION OF APPROPRIATIONS. - There is authorized to be appropriated such sums as may be necessary to carry out this section."

PATENT AND TRADEMARK LAWS

An Act to amend the patent and trademark laws; Pub. L. 96-517 (H.R. 6933); 94 STAT. 3015, 3026 (December 12, 1980).

[94 STAT. 3015]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35 of the United States Code, entitled "Patents", is amended by adding after chapter 29 the following new chapter 30:

* * *

[94 STAT. 3026]

Subsection 210. Precedence of chapter

"(a) This chapter shall take precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this chapter, including but not necessarily limited to the following:

* * *

"(18) section 306(d), of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 STAT. 455);

* * *

[**Note:** 306(d) became 306(c) as of August 29, 1984 recodification.]

AN ACT

An Act to revise, codify, and enact without substantive change certain general and permanent laws related to money and finance as title 31, United States Code "Money and Finance"; Pub. L. 97-258 (H.R. 6128); 96 STAT. 877, 1067 (September 13, 1982).

* * *

[96 STAT. 877]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * *

[96 STAT. 1067]

Sec. 4. (a) Sections 1-3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

* * *

[**Note:** In subsection 306(c), "section 3324(a) and (b) of title 31" was substituted for "section 3684 [3648] of the Revised Statutes (31 U.S.C. 529)" on authority of Pub. L. 97-258, subsection 4(b), Sept. 13, 1982, 96 STAT. 1067, the first section of which enacted Title 31, Money and Finance.]

**CONTINUING APPROPRIATIONS, 1985 -- COMPREHENSIVE
CRIME CONTROL ACT OF 1984**

Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes; Pub. L. 98-473 (H.J. Res. 648); 98 STAT. 1837, 1847, 1852-1853, 1875 (October 12, 1984).

[98 STAT. 1837]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

That the following sums are hereby appropriated, out of any money in the the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

* * *

[98 STAT. 1847]

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

* * *

ABANDONED MINE RECLAMATION FUND

* * *

[98 STAT. 1875]

Sec. 324. Notwithstanding any other provision of this joint resolution or any other law, section 401(c)(1) of Public Law 95-87 is amended by striking the word "and" after the words "in situ;" and adding the following after the word "subsidence;": "and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act: Provided, That funds used for this purpose shall not exceed \$3,000,000 of the funds made available to any State under Section 402(g)(2) of this Act;".

* * *

AN ACT

An Act to revise, codify, and enact without substantive change certain general and permanent laws related to money and finance as title 31, United States Code "Money and Finance"; Pub. L. 97-258 (H.R. 6128); 96 STAT. 877, 1067 (September 13, 1982).

* * *

[96 STAT. 877]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * *

[96 STAT. 1067]

Sec. 4. (a) Sections 1-3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

* * *

[**Note:** In subsection 402(g)(2), "chapter 69 of title 31" was substituted for "the Act of October 20, 1976, Public Law 94-565 (90 STAT. 2662) [31 U.S.C. et seq" on authority of Pub. L. 97-258, Section 4(b), Sept. 13, 1982, 96 STAT. 1067, the first section of which enacted Title 31, Money and Finance.]

**SURFACE MINING CONTROL AND RECLAMATION
ACT OF 1977, AMENDMENT**

An Act to amend the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State funds from the Abandoned Mine Land Reclamation Fund for expenditure in the future for purposes of abandoned mine reclamation, and for other purposes; Pub. L. 100-34 (H.R. 1963); 101 STAT. 300 (May 7, 1987).

[101 STAT. 300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I -- SPECIAL STATE SET-ASIDE

**SEC. 101. AMENDMENT OF SURFACE MINING CONTROL
AND RECLAMATION ACT.**

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 is amended by redesignating paragraph (3) as paragraph (4) and by adding the following new paragraph after paragraph (2):

"(3) SPECIAL STATE SET-ASIDE FOR FUTURE EXPENDITURE. --

Notwithstanding the proviso contained in paragraph (2), any State may receive and retain, without regard to the three-year limitation referred to in such proviso, up to ten per centum of the appropriated funds granted annually by the Secretary to that State under paragraph (2) if such moneys are deposited in a special trust fund established under State law and such moneys (together with all interest earned on such moneys) may be expended by the State solely to accomplish the purposes of this title after August 3, 1992. All moneys so deposited in special State trust accounts, as well as all interest earned, shall be considered State moneys. This paragraph shall cease to apply to any State for fiscal years after any fiscal year in which approval of the State regulatory program under section 503 is terminated or withdrawn by the Secretary until the first subsequent fiscal year after the fiscal year in which the Secretary reapproves the State program."

* * *

FURTHER CONTINUING APPROPRIATIONS, 1983

Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes; Pub. L. 97-377 (H.J. Res. 631), 96 STAT. 1830, 1918 (December 21, 1982).

[96 STAT. 1830]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

* * *

[96 STAT. 1918]

Sec. 150. Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State under the provisions of the Surface Mining Control and Reclamation Act (91 STAT. 460) the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations Act.

* * *

SUPPLEMENTAL APPROPRIATIONS ACT, 1987

An Act making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes; P.L. 100-71 (H.R. 1827); 101 STAT. 391, 416 (July 11, 1987).

[101 STAT. 391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes, namely:

* * *

[101 STAT. 416]

**OFFICE OF SURFACE MINING RECLAMATION AND
ENFORCEMENT ABANDONED MINE RECLAMATION FUND**

Section 405(k) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) is amended by adding at the end thereof, "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes".

* * *

AGRICULTURE AND FOOD ACT OF 1981

An Act to provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes; Pub. L. 97-98 (S.B. 884); 95 STAT. 1213, 1344 (December 22, 1981).

[95 STAT. 1213]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Agriculture and Food Act of 1981".

* * *

RECLAMATION

[95 STAT. 1344]

Sec. 1551. Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section with regard to acreage limitations, the Secretary of Agriculture may carry out experimental reclamation treatment projects to control erosion and improve water quality on all lands within a hydrologic unit, consisting of not more than 25,000 acres, if the Secretary determines that treatment of such lands as a hydrologic unit will achieve greater reduction in the adverse effects of past surface mining practices than would be achieved if reclamation was done on individual parcels of land."

* * *

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1984**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes; Pub. L. 98-146 (H.R. 3363); 97 STAT. 919, 938 (November 4, 1983).

[97 STAT. 919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes, namely:

* * *

[97 STAT. 938]

Sec. 115. Notwithstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), cross-sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans.

* * *

CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes; P.L. 100-202 (H.J.Res 395); 101 STAT. 1329, 1329-214, 1329-226, 1329-227 (December 22, 1987)

[101 STAT. 1329]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That --

* * *

[101 STAT. 1329-214]

CONTINUING APPROPRIATIONS 1988

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I -- DEPARTMENT OF THE INTERIOR

* * *

[101 STAT. 1329-226]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT
REGULATION AND TECHNOLOGY**

* * * Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section

[101 STAT. 1329-227]

518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977:

Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in *NWR v. Miller*, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

* * *

**SURFACE MINING CONTROL AND RECLAMATION ACT
OF 1977, AMENDMENT**

An Act to amend the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State funds from the Abandoned Mine Land Reclamation Fund for expenditure in the future for purposes of abandoned mine reclamation, and for other purposes; P. L. 100-34 (H.R. 1963); 101 STAT. 300, 301 (May 7, 1987)

[101 STAT. 300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * *

TITLE II – TWO-ACRE EXEMPTION

SEC. 201. REPEAL OF EXEMPTION.

(a) REPEAL. -- Section 528 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1278) is amended as follows:

- (1) In paragraph (1), insert "and" immediately after "him;" .
- (2) Strike out paragraph (2).
- (3) Redesignate paragraph (3) as (2).

(b) EFFECTIVE DATE FOR NEW OPERATIONS. -- The amendments made by this section shall take effect on the date 30 days after the enactment of this Act with respect to each operator commencing surface coal mining operations on or after such date.

(c) EFFECTIVE DATE FOR EXISTING OPERATIONS. -- The amendments made by this section shall take effect on the date 6 months after the enactment of this Act with respect to each operator commencing surface coal mining operations pursuant to an authorization under

[101 STAT. 301]

State law before the date 30 days after the enactment of this Act. Nothing in this Act shall preclude reclamation activities pursuant to State law or regulations at the site of any surface coal mine which was exempt from the Surface Mining Control and Reclamation Act of 1977 under section 528(2) of that Act, as in effect before the enactment of this Act.

(d) EFFECT ON STATE LAW. -- To the extent that any provision of a State law, or of a State regulation, adopted pursuant to the exception under section 528(2) of the Surface Mining Control and Reclamation Act of 1977 as in effect before the enactment of this Act, is inconsistent with the amendments made by this section, such provision shall be of no further force and effect after the effective date of such amendments.

(e) DEFINITION. -- For purposes of this section, the term "surface coal mining operations" has the meaning provided by section 701(28) of the Surface Mining Control and Reclamation Act of 1977.

* * *

**SURFACE MINING CONTROL AND RECLAMATION ACT
OF 1977**

An Act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes; Pub. L. 95-343 (S. 2463), 92 STAT. 473 (August 11, 1978).

[92 STAT. 473]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 712 of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87, 91 STAT. 445, 524) is hereby amended as follows:

(1) in subsection (a), delete all after "September 30, 1978," and insert in lieu thereof: "\$25,000,000 for each of the two succeeding fiscal years, and in such fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs."; and

(2) delete subsection (b) and insert in lieu thereof:

"(b) For the implementation and funding of section 507(c) there are authorized to be appropriated sums reserved by section 401(b)(1) for the purposes of section 507(c) and such additional sums as may be necessary (i) for the fiscal year ending September 30, 1978, to provide an amount not to exceed \$10,000,000 to carry out the purposes of section 507(c) and (ii) for the fiscal years ending September 30, 1979, and September 30, 1980, to provide an amount not to exceed \$25,000,000 to carry out the purposes of section 507(c)."

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

An Act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics. Pub. L. 95-617 (H.R. 4018); 92 STAT. 3117, 3166-3167. (November 9, 1978).

[92 STAT. 3117]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title and Table of Contents.

(a) Short Title -- This Act may be cited as the "Public Utility Regulatory Policies Act of 1978".

* * *

[92 STAT. 3166]

SEC. 604 COAL RESEARCH LABORATORIES

(a) Designation -- So much of section 801 of the Surface Mining Control and Reclamation of 1977 as precedes subsection (b) of paragraph (2) thereof is amended to read as follows:

"ESTABLISHMENT OF UNIVERSITY COAL RESEARCH LABORATORIES

"SEC. 801. (a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

"(b) In making designations under this section, the Administrator shall consider the following criteria:

"(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves."

(b) AUTHORIZATION OF APPROPRIATIONS - Section 806 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 806. (a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed \$30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed \$7,500,000 for the fiscal year 1980 and for each

fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

[92 STAT. 3167]

"(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed \$6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed \$2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title."

(c) CONFORMING AMENDMENT -- Title VIII of such Act is amended by striking out the terms "Administrator" and "Administrator, ERDA" in each place they appear and substituting "Secretary of Energy" in each such place.

* * *

DEPARTMENT OF ENERGY ORGANIZATION ACT

An Act to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.; Pub. L. 95-91 (S. 826); 91 STAT. 565, 577-578, 606-607 (August 4, 1977).

[91 STAT. 565]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Organization Act".

* * *

[91 STAT. 577]

TITLE III -- TRANSFERS OF FUNCTIONS

GENERAL TRANSFERS

Sec. 301. (a) Except as otherwise provided in this Act, there are hereby transferred to, and vested in, the Secretary all the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested

[91 STAT. 578]

by law in the officers and components of either such Administration.

* * *

[91 STAT. 606]

AGENCY TERMINATIONS

Sec. 703. Except as otherwise provided in this Act, whenever all of the functions vested by law in any agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component, by this Act, the agency, commission or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and

office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

* * *

SAVINGS PROVISIONS

Sec. 705. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges --

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Commission after the date of enactment of this Act, and

(2) which are in effect at the time of this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, the Federal Energy Regulatory Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any

[91 STAT. 607]

such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department or the Commission.

(c) Except as provided in subsection (e) --

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgements rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of

action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

* * *

REFERENCE

Sec. 707. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, the Federal Energy Regulatory Commission, or other official or component of the Department in which this Act vests such functions.

* * *

DEPARTMENT OF EDUCATION ORGANIZATION ACT

An Act to establish a Department of Education, and for other purposes; Pub. L. 96-88 (S. 210); 93 STAT. 668, 677, 692 (October 17, 1979).

[93 STAT. 668]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * *

[93 STAT. 677]

TITLE III -- TRANSFERS OF AGENCIES AND FUNCTIONS

**TRANSFERS FROM THE DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Sec. 301. (a) There are transferred to the Secretary -- (1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

* * *

[93 STAT. 692]

REFERENCE

Sec. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions.

* * *

APPROPRIATIONS

SUPPLEMENTAL APPROPRIATIONS ACT, 1978

An Act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; Pub. L. 95-240 (H.R. 9375); 92 STAT. 107, 109 (March 7, 1978).

[92 STAT. 107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations Act, 1978") for the fiscal year ending September 30, 1978, and for other purposes, namely:

* * *

[92 STAT. 109]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

ENFORCEMENT AND RESEARCH

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$30,880,000.

**ABANDONED MINE RECLAMATION
(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses to carry out the provisions of Title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$36,647,000, to remain available until expended: Provided, That \$36,647,000 shall be transferred from unappropriated receipts of the Abandoned Mine Reclamation Fund into the General Fund of the Treasury prior to September 30, 1978.

ADMINISTRATIVE PROVISIONS

Appropriations for the Office of Surface Mining Reclamation and Enforcement shall be available for the purchase of not to exceed 58 passenger motor vehicles: Provided, That none of the funds provided in this Act for the Office of Surface Mining Reclamation and Enforcement shall be available for the compensation of Executive Level IV or higher positions: Provided further, That section 201(b) of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) is amended to delete the roman numeral "IV" in the first sentence and substitute the roman numeral "V" in lieu thereof.

* * *

**AUTHORIZATION, APPROPRIATIONS--DEPARTMENT OF
THE INTERIOR AND RELATED AGENCIES**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes; Pub. Law 95-465 (H.R. 12932), 92 STAT. 1279, 1286 (October 17, 1978).

[92 STAT. 1279]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes, namely:

* * *

[92 STAT. 1286]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$53,944,000.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of Title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, to remain available until expended, \$61,451,000, to be derived from receipts of the Abandoned Mine Reclamation Fund.

ADMINISTRATIVE PROVISION

Appropriations for the Office of Surface Mining Reclamation and Enforcement shall be available for the purchase of not to exceed 10 passenger motor vehicles.

**APPROPRIATIONS--DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes; Pub; L. 96-126 (H.R. 4930); 93 STAT. 954, 962, 967 (November 27, 1979).

[93 STAT. 954]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes, namely:

* * *

[93 STAT. 962]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$84,687,000.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, to remain available until expended, \$94,916,000, to be derived from receipts of the Abandoned Mine Reclamation Fund.

[93 STAT. 967]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction, and for emergency reclamation projects under section 410 of Public-Law 95-87: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement

to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

**APPROPRIATIONS--DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES FOR FISCAL YEAR, 1981**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes; Pub. L. 96-514 (H.R. 7724); 94 STAT. 2957, 2966, 2971 (December 12, 1980).

[94 STAT. 2957]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year September 30, 1981, and for other purposes, namely:

* * *

[94 STAT. 2966]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$92,833,000 including the purchase of not to exceed 34 passenger motor vehicles for replacement only.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 34 passenger motor vehicles for replacement only, to remain available until expended, \$82,485,000 of which \$16,000,000 shall be available to the Bureau of Mines to carry out research, demonstration, and reclamation projects authorized by section 403, Public Law 95-87, to be derived from receipts of the Abandoned Mine Reclamation Fund.

[94 STAT. 2971]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for

the emergency rehabilitation of burned-over lands under its jurisdiction, and for emergency reclamation projects under section 41 of Public-Law 95-87: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

**SUPPLEMENTAL APPROPRIATIONS AND
RESCISSION ACT, 1981**

An Act making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981, rescinding certain budget authority, and for other purposes; Pub. L. 97-12 (H.R. 3512); 95 STAT. 14, 45 (June 5, 1981).

[95 STAT. 14]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations and Rescission Act, 1981") for the fiscal year ending September 30, 1981, that the following rescissions of budget authority are made, and for other purposes, namely:

* * *

[95 STAT. 45]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

(RESCISSION AND DEFERRAL)

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1981 (Public Law 96-514), \$3,154,000 are rescinded and \$5,800,000 shall not become available for obligation until October 1, 1981, to remain available for obligation until September 30, 1982.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

An Act to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982; Pub. L. 97-35 (H.R. 3982); 95 STAT. 357, 748 (August 13, 1981).

SHORT TITLE

[95 STAT. 357]

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1981".

* * *

[95 STAT. 748]

Sec. 1401. (a) Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of the Interior for Department of the Interior programs as defined in subsection (e) in excess of \$4,095,404,000 for the fiscal year ending on September 30, 1981; in excess of \$3,970,267,000 for the fiscal year ending on September 30, 1982; \$4,680,223,000 for the fiscal year ending on September 30, 1983; and \$4,797,281,000 for the fiscal year ending on September 30, 1984.

(b) It is the sense of the Congress that the appropriations targets for such fiscal years should be: * * * not less than \$6,200,000 to be appropriated annually to carry out the provisions of title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445); and not less than \$100,000,000 to be appropriated annually pursuant to the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601, et seq.) including not less than \$5,000,000 annually to carry out the purposes of section 3 of said Act.

(c) Notwithstanding the limitation otherwise imposed by subsection (a) of this section--

(1) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in subsection (a) by such amount as permanent and annual indefinite appropriations exceed the estimates for such appropriations as contained in "The Budget of the United States Government, Fiscal Year 1982," as revised by the March 1981, publication of the Office of Management and Budget entitled "Fiscal Year 1982 Budget Revisions", when receipts available to be appropriated equal or exceed such appropriations, and

* * *.

**APPROPRIATIONS--DEPARTMENT OF THE INTERIOR--
FISCAL YEAR 1982**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes; Pub. L. 97-100 (H.R. 4035); 95 STAT. 1391, 1398, 1403 (December 23, 1981).

[95 STAT. 1391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1982, and for other purposes, namely:

* * *

[95 STAT. 1398]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$60,953,000 including the purchase of not to exceed 10 passenger motor vehicles for replacement only.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 15 passenger motor vehicles for replacement only, to remain available until expended \$106,335,000, of which \$16,000,000 shall be available to the Bureau of Mines to carry out research, demonstration, and reclamation projects authorized by section 403, Public Law 95-87, to be derived from receipts of the Abandoned Mine Reclamation Fund.

[95 STAT. 1403]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for

the emergency rehabilitation of burned-over lands under section 41 of Public-Law 95-87: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; Pub. L. 97-257 (H.R. 6863), 96 STAT. 818, 838, 841 (September 10, 1982).

[96 STAT. 818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriation for the fiscal year ending September 30, 1982, and for other purposes, namely:

* * *

[96 STAT. 838]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

ABANDONED MINE RECLAMATION FUND

For an additional amount for "Abandoned Mine Reclamation Fund", \$13,251,000 for the purposes of section 406 of Public Law 95-87.

[96 STAT. 841]

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", \$1,080,000, to remain available until expended: Provided, That there are transferred to, and vested in, the Secretary of the Interior all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to (1) the Act of May 16, 1910, and other authorities formerly exercised by the Bureau of Mines, but limited to research and development relating to increased efficiency of production technology of solid fuel minerals; (2) section 908 of the Surface Mining Control and Reclamation Act of 1977, relating to research and development concerning alternative coal mining technologies (30 U.S.C. 1328); (3) sections 5(g)(2), 8(a)(4), 8(a)(9), 27(b)(2)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(g)(2) and 1337(a)(4) and 1337(a)(9); and (4) section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213): Provided further, That the personnel employed, personnel positions, equipment, facilities, and unexpended balances of the aforementioned transferred programs shall be merged with the "Mines and minerals" account of the Bureau of Mines.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1983

Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes; Pub. L. 97-276 (H.J. Res. 599); 96 STAT. 1186, 1187 (October 2, 1982).

[96 STAT. 1186]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely: * * *

[96 STAT. 1187]

Sec. 101(5)(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1982, under the current terms and conditions and at a rate to maintain current operating levels:
* * *

* * * including those activities conducted pursuant to section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended, for which provision was made in the Department of the Interior and Related Agencies Appropriation Act, 1982: Provided, That no programs or facilities funded therein may be terminated unless such termination is specifically approved in the appropriations process, including reprogramming.

FURTHER CONTINUING APPROPRIATIONS, 1983

Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes; Pub. L. 97-377 (H.J. Res. 631), 96 STAT. 1830, 1918 (December 21, 1982).

[96 STAT. 1830]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

* * *

[96 STAT. 1918]

Sec. 150. Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State under the provisions of the Surface Mining Control and Reclamation Act (91 Stat. 460) the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations Act.

* * *

**INTERIOR DEPARTMENT AND RELATED AGENCIES,
APPROPRIATIONS FOR FISCAL YEAR 1983**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes; Pub. L. 97-394 (H.R. 7356); 96 STAT. 1966, 1974, 1981 (December 30, 1982).

[96 STAT. 1966]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purpose, namely:

* * *

[96 STAT. 1974]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$60,356,000, including the purchase of not to exceed 35 passenger motor vehicles for replacement only.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 10 passenger motor vehicles for replacement only, to remain available until expended, \$161,209,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 percent.

[96 STAT. 1981]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction, and for emergency reclamation projects section 41 of Public-Law 95-87, and shall transfer from any no year funds available, to the Office of Surface Mining such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act, such funds to be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

SUPPLEMENTAL APPROPRIATIONS ACT, 1983

An Act making supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes; Pub. L. 98-63 (H.R. 3069); 97 STAT. 301, 325, 327-328 (July 30, 1983).

[97 STAT. 301]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes, namely:

* * *

[97 STAT. 325]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

ABANDONED MINE RECLAMATION FUND

For an additional amount for "Abandoned Mine Reclamation Fund", \$51,870,000, to remain available until expended.

[97 STAT. 327]

OFFICE OF THE SOLICITOR

For an additional amount for "Office of the Solicitor", \$484,000 for the diligent and immediate pursuance of alternative enforcement measures to enforce previously issued cessation orders against coal mine operators who have not abated the conditions for which the cessation order was issued and to accelerate collection of amounts

[97 STAT. 328]

assessed for violation of the Surface Mining Control and Reclamation Act of 1977.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1984**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes; Pub. L. 98-146 (H.R. 3363); 97 STAT. 919, 927-928, 933 (November 4, 1983).

[97 STAT. 919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes, namely:

* * *

[97 STAT. 927]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87,

[97 STAT. 928]

\$65,450,000, including the purchase of not to exceed 19 passenger motor vehicles, of which 9 shall be for replacement only.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 9 shall be for replacement only, to remain available until expended, \$229,228,000 to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 percent.

* * *

[97 STAT. 933]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any major appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction and for emergency actions related to potential or actual earthquakes or volcanoes, and for emergency reclamation projects under section 41 of Public-Law 95-87 and shall transfer from any no year funds available, to the Office of Surface Mining such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act, such funds to be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of \$1,000,000 systems life cost, without prior approval of the Secretary.

[97 STAT. 938]

Sec. 115. Notwithstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), cross-sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans.

* * *

**SUPPLEMENTAL APPROPRIATIONS ACT, 1984;
DOMESTIC HOUSING AND INTERNATIONAL RECOVERY
AND FINANCIAL STABILITY ACT**

An Act making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes; Pub. L. 98-181 (H.R. 3959); 97 STAT. 1153, 1294-1295 (November 30, 1983).

[97 STAT. 1153]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, namely:

* * *

[97 STAT. 1294]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

ABANDONED MINE RECLAMATION FUND

For an additional amount for "Abandoned Mine Reclamation Fund", \$42,000,000, to remain available until expended, to be derived from receipts of the Abandoned Mine Reclamation Fund to provide for the acquisition of private homes and businesses and nonprofit buildings occupied or utilized continuously since September 1, 1983, and the lands on which they are located, excluding all mineral interests, and the relocation of families and individuals residing in the Borough of Centralia and the Village of Byrnesville and on outlying properties who are threatened by the progressive movement of the mine fire currently burning in and around the borough of Centralia: Provided, That all acquisitions made by the Commonwealth of Pennsylvania under the authority provided herein shall be at fair market value without regard to mine fire related damages as was properly done by OSM in its prior acquisitions of Centralia properties. These activities must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), but shall not 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): Provided further,

[97 STAT. 1295]

That no funds may be used to pay for the actual construction costs of permanent housing: Provided further, That the Federal discretionary share shall not exceed 75 percent of the cost of such acquisition or relocation: Provided further, That any funds

remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: Provided further, That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth.

SUPPLEMENTAL APPROPRIATIONS, 1984

Joint Resolution making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; Pub. L. 98-332 (H.J. Res. 492); 98 STAT. 283, 285-286 (July 2, 1984).

[98 STAT. 283]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984: namely:

* * *

[98 STAT. 285]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

ABANDONED MINE RECLAMATION FUND

Notwithstanding any other provision of law, within the amounts provided under this head in the Department of the Interior and Related Agencies Appropriation Act, 1984 (Public Law 98-146), \$1,000,000 shall be made available to the State of Montana for

[98 STAT. 286]

reclamation grants pursuant to section 402(g)(2) of Public Law 95-87 for reclamation of the Colorado Tailings site in Montana.

SECOND SUPPLEMENTAL APPROPRIATION ACT, 1984

An Act making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes; Pub. L. 98-396 (H.R. 6040); 98 STAT. 1369, 1387 (August 22, 1984).

[98 STAT. 1396]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, namely:

* * *

[98 STAT. 1387]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For an additional amount for "Regulation and technology", \$4,775,000.

**CONTINUING APPROPRIATIONS, 1985--COMPREHENSIVE
CRIME CONTROL ACT OF 1984**

Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes; Pub. L. 98-473 (H.J. Res. 648); 98 STAT. 1837, 1847, 1852-1853, 1875 (October 12, 1984).

[98 STAT. 1837]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

* * *

[98 STAT. 1847]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$76,625,000, including the purchase of not to exceed 14 passenger motor vehicles of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, \$303,001,000 to be derived from receipts of Abandoned Mine Reclamation Fund: Provided, That pursuant of Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public law 95-87,

administrative expenses may not exceed 15 percent: Provided further, That none of these funds shall be used to increase over the fiscal year 1984 level a reclamation grant to any State which has no active program to review regulatory permits for those individuals who have outstanding fines or penalties related to past coal mining violations.

* * *

[98 STAT. 1852]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes or volcanoes; for emergency reclamation projects under Section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act; Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment

[98 STAT. 1853]

in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be requested as promptly as possible.

* * *

[98 STAT. 1875]

* * *

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 324. Notwithstanding any other provision of this joint resolution or any other law, section 401(c)(1) of Public Law 95-87 is amended by striking the word "and" after the words "in situ;" and adding the following after the word "subsidence;": "and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act: Provided, That funds used for this purpose shall not exceed \$3,000,000 of the funds made available to any State under Section 402(g)(2) of this Act;".

* * *

Sec. 326. The land acquisition and relocation authorized for Centralia, Pennsylvania, under chapter IV of Public Law 98-181 shall not require any matching share of funding from the State of Pennsylvania under Section 407(e) of the "Surface Mining Control and Reclamation Act of 1977".

FURTHER CONTINUING APPROPRIATIONS, 1985

Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes; Pub. L. 99-190 (H.J. Res. 465); 99 STAT. 1185, 1224, 1233-1234, 1241 (December 19, 1985).

[99 STAT. 1185]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1986, and for other purposes, namely: * * *

[99 STAT. 1224]

* * *

Sec. 101 "(d) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:".

[99 STAT. 1233]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$85,153,000, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; and notwithstanding 31 U.S.C. 3302, an amount equal to receipts to the General Fund of the Treasury from performance bond forfeitures, estimated at \$500,000 in fiscal year 1986, to remain available until expended: Provided, That no funds shall be used to finalize or implement any proposed rule, or take any other action which would result in the adoption by the Office of Surface Mining Reclamation and Enforcement of a rule or regulation pursuant to section 507(a) of Public Law 95-87 which would require applicants to reimburse the Department of the Interior for costs incurred in the collection of application fees for permits to conduct surface coal mining and reclamation

operations; for permits to conduct coal exploration; for processing mining plans; or for the review of surface coal mining and reclamation permits.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, \$207,385,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be

[99 STAT. 1234]

used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit application are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), including failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public law 95-87, when pursuant to the procedures set forth in section 521 of the Act, the Secretary determines that a State is systematically failing to adequately administer the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

[99 STAT. 1241]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions relate to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 41 of Public-Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1987

Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes; P.L. 99-500 (H.J.Res. 738); 100 STAT. 1783, 1783-243, 1783-253, 1783-254, 1783-260 (October 18, 1986).

[100 STAT. 1783]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

Sec. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes.

* * *

[100 STAT. 1783-243]

Sec. 101(h)

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I - DEPARTMENT OF THE INTERIOR

* * *

[100 STAT. 1783-253]

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
REGULATION AND TECHNOLOGY**

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of

[100 STAT. 1783-254]

Surface Mining Reclamation and Enforcement; \$100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, \$203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the

State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

* * *

[100 STAT. 1783-260]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions relate to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 41 of Public-Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1987

Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes; P.L. 99-591(H.J. Res 738); 100 STAT. 3341-260, 3341-253, 254, 3341-267 (October 30, 1986).

[100 STAT. 3341]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

* * *

[100 STAT. 3341-253]

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
REGULATION AND TECHNOLOGY**

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office

[100 STAT. 3341-254]

Surface Mining Reclamation and Enforcement; \$100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, \$203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That

none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

[100 STAT. 3341-260]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption or regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire

suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That all funds used pursuant to his section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

* * *

[100 STAT. 3341-267]

* * *

Sec. 123. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

* * *

SUPPLEMENTAL APPROPRIATIONS ACT, 1987

An Act making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes; P.L. 100-71 (H.R. 1827); 101 STAT. 391, 416 (July 11, 1987).

[101 STAT. 391]

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes, namely:

* * *

[101 STAT. 416]

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
ABANDONED MINE RECLAMATION FUND**

Section 405(k) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) is amended by adding at the end thereof, "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes".

* * *

CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes; P.L. 100-202 (H.J.Res 395); 101 STAT. 1329, 1329-214, 1329-226, 1329-227, 1329-233 (December 22, 1987)

[101 STAT. 1329]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That--

* * *

[101 STAT. 1329-214]

CONTINUING APPROPRIATIONS 1988

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I -- DEPARTMENT OF THE INTERIOR

* * *

[101 STAT. 1329-226]

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
REGULATION AND TECHNOLOGY**

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; \$102,125,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1988: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section

[101 STAT. 1329-227]

518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977: Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provision of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, \$199,380,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: Provided further, That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

* * *

[100 STAT. 1329-233]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption or regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1989**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes. Pub.L. 100-446 (H.R.4867); 102 STAT. 1774, 1792, 1793, 1799, 1800 (September 27, 1988).

[102 STAT. 1774]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

[102 STAT. 1792]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$ 400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; \$ 101,095,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1989: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1989 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in *NWR v. Miller*, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, \$ 193,160,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: Provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: Provided further, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE sponsored training: Provided further, That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States. Funds authorized as grants to States shall be reconciled according to --

(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989.

[102 STAT. 1799]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

[102 STAT. 1799]

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the

[102 STAT. 1800]

Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a Primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently

available at the time of receipt thereof: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1989**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes. Pub. L. 101-121 (H.R. 2788); 103 STAT. 701, 712, 713, 719 (October 23, 1989).

[103 STAT. 701]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

[103 STAT. 712]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$ 400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; \$ 101,228,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1990: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1990 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in *NWR v. Miller*, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: Provided further, That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase

of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, \$ 192,772,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil

[103 STAT. 713]

penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: Provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

[103 STAT. 719]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this

authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, or volcanoes; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1990**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes. Pub L. 101-512 (H.R. 5769); 104 STAT. 1915, 1927, 1928, 1929, 1934 and 1935 (November 5, 1990).

[104 STAT. 1915]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

[104 STAT. 1927]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; and uniform allowances of not to exceed \$ 400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; \$ 109,927,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1991: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1991 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in *NWR v. Miller*, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: Provided further, That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training. Provided further, That notwithstanding the requirements of section 705 of Public Law 95-87 (30 U.S.C. 1295) appropriations herein shall be available to fund the full costs to the States to implement the Applicant Violator System in compliance with the January 24, 1990

Settlement Agreement between Save Our Cumberland Mountains, Inc. et al. and Manuel Lujan, Jr., Secretary United States Department of the Interior, et al.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, \$ 200,006,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the

[104 STAT. 1928]

recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(4) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: Provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: Provided further, That, notwithstanding any other provision of law, funds appropriated pursuant to Public Law 98-181 and derived from receipts of the Abandoned Mine Reclamation Fund shall be made available to and expended by the

Commonwealth of Pennsylvania to provide for the acquisition of the ten properties along Route 61 near the Borough of Centralia, previously identified by the Commonwealth of Pennsylvania to the Office of Surface Mining Reclamation and Enforcement as needing acquisition but ineligible for funding pursuant to Public Law 98-181, and for the relocation of families and individuals residing in such properties who are threatened by the progressive movement of the mine fire currently burning in and around the Borough of Centralia: Provided further, That all acquisitions made by the Commonwealth of Pennsylvania under the authority provided herein shall be at fair market value without regard to the mine fire-related damages and such homeowners shall be treated in a manner that avoids any disparity with the treatment authorized and implemented pursuant to Public Law 98-181: Provided further, That land acquisition and relocation authorized herein shall not require any matching funding from the Commonwealth of Pennsylvania under section 407(e)

[104 STAT. 1929]

of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

[104 STAT. 1934]

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available

[104 STAT. 1935]

to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, to the authority in

section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

ABANDONED MINE RECLAMATION ACT OF 1990

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1991**

An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991. Pub. L. 101-508 (H.R. 5835); 104 STAT. 1388, 1388-289 through 1388-299 (November 5, 1990).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[104 STAT. 1388]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1991**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes. Pub. L. 102-154 (H.R. 2686); 105 STAT. 990, 1002, 1003, 1010 and 1011 (November 13, 1991).

[105 STAT. 990]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

[105 STAT. 1002]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; \$ 111,100,000 and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, from performance bond forfeitures in fiscal year 1992: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1992 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training: Provided further, That notwithstanding the requirements of section 705 of Public Law 95-87 (30 U.S.C. 1295) appropriations herein shall be available to fund the full costs to the States to implement the Applicant Violator System in compliance with the January 24, 1990 Settlement Agreement between Save Our Cumberland Mountains, Inc. and Manuel Lujan, Jr., Secretary, United States Department of the Interior, et al.

[105 STAT. 1003]

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, \$ 190,200,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That of the funds herein provided up to \$ 22,000,000 may be used for the emergency program authorized by section 410 of Public Law 95-87, as amended, of which no more than 20 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed \$ 15,000,000: Provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: Provided further, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement.

[105 STAT. 1010]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills;

[105 STAT. 1011]

response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon

cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1992**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes. Pub. L. 102-381 (H.R. 5503); 106 STAT. 1374, 1386 and 1387 (October 5, 1992).

[106 STAT. 1374]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

[106 STAT. 1386]

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement

[106 STAT. 1387]

only; \$ 112,674,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1993: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1993 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, \$ 189,541,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That of the funds herein provided up to \$ 22,000,000 may be used for the emergency program authorized by section 410 of Public Law 95-87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for federally-administered emergency reclamation projects under this proviso shall not exceed \$ 15,000,000: Provided further, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: Provided further, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement.

ADMINISTRATIVE PROVISION

None of the funds available to the Office of Surface Mining Reclamation and Enforcement shall be expended to create or maintain more than one Deputy Director position.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon

cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

**DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1993**

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes. Pub. L. 103-138 (H.R. 2520); 106 STAT. 1379 (November 11, 1993).

[106 STAT. 1379]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes, namely:

**OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT**

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; \$110,552,000 , and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1994 : Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1994 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, \$190,107,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That of the funds herein provided up to \$20,000,000 may be used for the emergency program authorized by section 410 of Public Law 95-87, as amended, of which no more than 25 per centum shall be used for

emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed \$12,000,000: Provided further, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper

[107 STAT. 1379]

and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior

Firefighting Fund" shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.