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From _____

CONGRESSMAN

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RAHALL RELEASES ANALYSIS OF MINE RECLAMATION LAWS

WASHINGTON, D.C.---U.S. Rep. Nick J. Rahall, Chairman of the Subcommittee on Mining and Natural Resources, today released a Congressional report which provides the first comprehensive analysis of federal and state laws governing the reclamation of non-coal minerals mining.

"Mine reclamation is a matter of critical environmental and social importance," said Rahall, "and with the enactment of the federal Surface Mining Control and Reclamation Act of 1977, the Congress imposed specific and stringent reclamation standards on the surface coal mining industry. However, the mining of minerals other than coal are not regulated under SMCRA."

The Congressional Research Service report, conducted at the request of Chairman Rahall, examines the extent to which, in the absence of comprehensive federal legislation similar to SMCRA, reclamation of lands surface mined for non-coal minerals currently is required either by state law or federal law or regulations.

According to the report, the federal non-coal mineral laws do not expressly require reclamation, although some reclamation requirements have been imposed administratively. In addition, the majority of the states have statutes regulating at least some surface mining of non-coal minerals, however, the report does not attempt to analyze the adequacy of these laws.

The report, entitled, "Reclamation of Lands Following Non-Coal Surface Mining: A Legal Analysis," found that 35 states have laws regulating the development of minerals other than coal and that reclamation requirements, as a rule, are extensive and typically include such crucial elements as regrading, revegetation, protection of streams and water sources, prevention and control of air and water pollution, reduction of erosion, slides, siltation, the covering of acid forming and toxic materials and proper disposal of refuse. In 31 states, bonds or other security are required to help ensure that reclamation is performed and 19 states provide criminal penalties for surface mining violations.

Rahall stated that, "The extent to which environmental damage continues in states with and without such laws is a factual question not evident from this survey of state codes."

While the report found that there are no federal laws which specifically mandate the reclamation of non-coal "hardrock" mineral mining operations, the Bureau of Land Management has promulgated regulations that impose reclamation requirements and land management statutes such as the Federal Land Policy and Management Act of 1976 (FLPMA) impose duties to conserve the various resources of public lands for other, nonmineral purposes. The report also noted that the Mining Act of 1872 and FLPMA specifically state that they do not preempt state laws on operations and reclamation on federal lands, although typically the state laws surveyed neither expressly include nor exclude federal lands within the definitions of lands affected by the statutes.

In summary, the report stated that with respect to federal reclamation requirements imposed administratively, the regulations vary depending on the minerals and lands involved, are subject to administrative change since the requirements are not direct statutory requirements and there is considerable administrative discretion as to the requirements that are imposed in any particular instance.