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Congressional Record S. 3920 - Forest Service Mineral Regulations

Mike Mansfield 1903-2001

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CONGRESSIONAL RECORD — SENATE

March 25, 1971

INFORMATION COPY FROM
MIKE MANSFIELD
UNITED STATES SENATOR
MONTANA

FOREST SERVICE MINERAL REGULATIONS

Mr. MANSFIELD. Mr. President, I feel certain that Senators are aware that the matter of environmental degradation as a result of extensive mining in the Western States, and in my State of Montana in particular, has been of grave concern to me.

On March 16, the distinguished Senator from Idaho (Mr. Cannon) introduced S. 1240, relating to prospecting and exploring for minerals on public lands. At that time, I addressed the Senate, indicating my concern for the need for overhauling the mining laws of the last century.

Recognizing my concern in these areas, Edward Cliff, Chief of the Forest Service, recently forwarded to me a new set of proposed rules and regulations which will affect surface use of the national lands in connection with mineral developments. First, let me offer my congratulations to the Forest Service for their recognition of this most serious problem and for their expedient attention in upgrading existing regulations to attempt to compensate for the damage being done. The proposed regulations, which I mention, have been made available to elected representatives, Government agencies, conservationist groups, and industrial organizations for their comments prior to official adoption. With this in mind, and with the approval of the Forest Service, I am unanimous consent to have printed in the Record a letter from Chief Cliff, as well as the proposed regulations. I feel it important that all who are interested be given an opportunity to review these regulations.

I am confident that the Forest Service will give serious attention to any comments that Senators or others might care to make.

There being no objection, the items were ordered to be printed in the Record, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,Washington, D.C.

HON. MIKE MANSFIELD, U.S. Senator.

DEAR SENATOR MANSFIELD: Enclosed for your information and convenience are proposed regulations and an environmental statement concerning mineral development under the authorities of the United States mining laws. These regulations are proposed to set forth rules and procedures through which use of the surface of National Forest lands in connection with mineral development shall be conducted so as to avoid or minimize adverse environmental effects and loss or damage to other National Forest resources. The environmental statement has been prepared in conformance with Section 102(2)(c) of the National Environmental Policy Act of 1969.

Government agencies, industry organizations, and conservation groups have been asked to comment on this proposal prior to publication of the regulations in the Federal Register. Because of your interest in National Forest programs we are advising you of this proposal in its early stage of review.

Sincerely,

EDWARD P. CLIFF,
Chief, USDA DRAFT ENVIRONMENTAL STATEMENT PROPOSAL MINERAL REGULATIONS
(Prepared in accordance with section 102(2)(c) of Public Law 91-100)

Administrative action is being taken to propose regulations which would amend Section 251.12, Part 251, Title 36 of the Code of Federal Regulations. They provide for the protection and conservation of the surface resources in connection with prospecting, exploration, development, mining, or processing operations and uses reasonably incident thereto on some 140 million acres of National Forest land which are subject to location and entry under the United States mining laws.

These regulations would provide that all prospecting, exploration, development, mining, and processing operations carried out on National Forest lands will be conducted to harmonize, insofar as practicable, with the environment by protecting fragile landscapes, ecological communities, natural beauty, and future productivity of other renewable forest resources.

ADVERSE ENVIRONMENTAL EFFECTS WHICH CAN BE IMPROVED

The proposed regulations would have no adverse effects since their primary purpose is to protect the environment within existing statutes. Beginning up the surface in connection with mineral development will require planning and design to minimize the physical impact on the environment.

ALTERNATIVES TO THE PROPOSED ACTION

1. Continue current mode of persuading mineral claimants to avoid the necessary surface disturbance at a minimum.

2. New legislation to modify or change the existing location system.

3. Rely on State enforcement of air, water, and solid waste pollution criteria and standards.

NATURE OF LEGISLATION OR ACTION

The increasing national demand for minerals has caused an intensive search for new mineral deposits in national forests. These valuable deposits were discovered years ago, and new deposits must now be found at greater depths, thus requiring larger and more sophisticated equipment to adequately delineate and appraise the value of these hidden ore bodies. However, the use and attendant disturbance of National Forest lands in connection with mineral development are now increasing.

Such use of the surface of National Forest lands, although authorized by law, can have a serious impact on other National Forest resources.

Section 1 of the Act of June 4, 1897 (30 Stat. 55, 56; 16 U.S.C. 551, 478), provides that persons entering National Forests for the purposes of prospecting, locating, and developing mineral resources must comply with the rules and regulations covering National Forests. Section 4 of the Act of July 23, 1955 (39 Stat. 366, 30 U.S.C. 81) provides that mining claims located after July 23, 1955, are to be used only for prospecting, mining, or processing operations and uses incident thereto, and that rights under such claims are subject to the right of the United States to manage and dispose of the surface resources, and to manage other surface resources thereof.

Authority to regulate surface use of National Forests in connection with mineral development has existed for many years, but reasonable use and administration has only been achieved by persuasion with responsible mining claimants. This has not been adequate to achieve the best possible uniform protection of important environmental values. A comprehensive and fair set of regulations is needed. Further support for such regulations may be found in Section 102 of the Environmental Policy Act. It directs that to the fullest extent possible the policies, regulations, and laws of the United States shall be interpreted in accordance with the policies of the Act.

In order to meet these environmental protection responsibilities and to more specifically define the rights and obligations of miners operating on the National Forests, it is appropriate to provide mining regulations to meet these objectives.

PROPOSED ACTION

The proposed regulations would amend Section 251.12, Part 251, Title 36 of the Code of Federal Regulations to provide for the protection and conservation of the surface resources in connection with mining, and processing claims located after July 23, 1955, are to be used only for prospecting, mining, or processing operations and uses incident thereto, and that rights under such claims are subject to the right of the United States to manage and dispose of the surface resources, and to manage other surface resources thereof.

I ENVIROMENTAL IMPACT

The proposed regulations are applicable to approximately 140 million acres that are open to mining location and entry under the mining laws within the National Forest System. These regulations would provide that all mining and processing operations carried out on National Forest lands shall be conducted to harmonize, insofar as practicable, with the environment.
able with the environment, by protecting fragile landscapes, important ecological communities, natural beauty, and future productivity.

Specifically, the regulations would meet these broad objectives by requiring measures including, but not limited to, the prevention of fish and wildlife habitat degradation or destruction; preservation of riparian areas; control of drainage; and vegetation: proper location of roads and facilities; the protection of fish and wildlife species and their ecosystems; the prevention of hazards to public safety and health; and the protection of forests and the environment. Those that are to be used only for prospecting, mining, or processing operations and uses are referred to as surface and drainage uses. Those that are subject to the right under such claims are subject to the right of the United States to manage and dispose of the mineral resources associated with and surface or drainage uses of other surface resources thereof. The Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 350), authorizes the Secretary of Agriculture to develop and administer the renewable natural resources of the National Forests for recreation, range, timber, and wildlife and fish purposes. Section 102 of the National Environmental Policy Act of 1969 (3 Stat. 852, 42 U.S.C. 4332) authorizes and directs that to the fullest extent possible the policies, regulations, and laws of the executive branch of the Government shall be administered in accordance with the policies of the Act, which include the requirement that decisions of the executive branch be given appropriate consideration in decision making.

Purpose. It is the purpose of these regulations to set forth the rules and procedures through which use of the surface and drainage uses of National Forests and the environment. Those that are subject to the right under such claims are subject to the right of the United States to manage and dispose of the mineral resources associated with and surface or drainage uses of other surface resources thereof. The Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 350), authorizes the Secretary of Agriculture to develop and administer the renewable natural resources of the National Forests for recreation, range, timber, and wildlife and fish purposes. Section 102 of the National Environmental Policy Act of 1969 (3 Stat. 852, 42 U.S.C. 4332) authorizes and directs that to the fullest extent possible the policies, regulations, and laws of the executive branch of the Government shall be administered in accordance with the policies of the Act, which include the requirement that decisions of the executive branch be given appropriate consideration in decision making.

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turing or catch basins, or treatment facilities of sufficient capacity for the life of the planned operation.

2. Solid Wastes. Operators shall comply with applicable Federal and State solid waste disposal standards, but in no event shall operations be conducted in such a manner as to cause air pollution, solid waste, or groundwater pollution.

3. Streams and Lakes. If operations in streams and lakes are to be undertaken, they shall be conducted in such manner as to cause the minimum practicable disturbance of the lake or stream bed and to maintain the highest practicable quality of the waters of the lake or stream.

4. Reclamation, Rehabilitation, Restoration. Except for roads within mining claims, at the conclusion of operations on mining claims, operators shall take measures to promptly stabilize, rehabilitate, and, when practicable, restore disturbed areas. Such measures shall include, but not be limited to:
   (1) Control of erosion and landslides.
   (2) Control of storm water runoff.
   (3) Erdinaing of tailings, putrefying piles, and trash piles.
   (4) Reseeding and revegetation of disturbed areas.
   (5) Elimination of hazards to public health and safety.
   (6) Restoration of fisheries habitats.
   (7) Restoration of fish, stream, and lake ecosystems, where applicable.

5. Roads within Mining Claims. Operators shall construct and maintain all roads within mining claims to assure adequate drainage and to prevent damage to soil, water, and other resource values. Unless otherwise requested by the Forest Service, roads no longer needed for operations shall be closed to normal vehicular traffic, bridges and culverts removed, cross drains, dikes, or water bars constructed, and revegetated or surfaced to provide a permanent protective cover.

6. Fish and Wildlife. Operators shall preserve, maintain, and protect fish and wildlife resources. Forest Service, as applicable, by the following measures:
   (i) Maintenance of fish, wildlife, and plant habitats.
   (ii) Maintenance of fish, wildlife, and plant populations.
   (iii) Maintenance of fish, wildlife, and plant communities.
   (iv) Maintenance of fish, wildlife, and plant species.

7. Federal and State Forests. Operators shall maintain and protect all Federal and State forest lands, waters, and other natural resources.

The provisions of this Act shall be enforced by the Forest Service, and the person or persons violating any provision thereof shall be guilty of a misdemeanor and subject to a fine not exceeding $500 and imprisonment not exceeding one year.