

L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The Refuse Act of 1899 (33 U.S.C. 407), referred to in subsec. (a)(6), probably means act Mar. 3, 1899, ch. 425, §13, 30 Stat. 1152, which enacted section 407 of Title 33, Navigation and Navigable Waters.

The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661-666c), referred to in subsec. (a)(7), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, known as the Fish and Wildlife Coordination Act, which is classified generally to sections 661 to 666c-1 of Title 16, Conservation. For complete classification of this Act to the Code, see section 661(a) of Title 16, Short Title note set out under section 661 of Title 16, and Tables.

The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), referred to in subsec. (a)(8), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

### § 1293. Employee protection

#### (a) Retaliatory practices prohibited

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 chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

#### (b) Review by Secretary; investigation; notice; hearing; findings of fact; judicial review

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. 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 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 chapter.

#### (c) Costs

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.

(Pub. L. 95-87, title VII, §703, Aug. 3, 1977, 91 Stat. 520.)

### § 1294. Penalty

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 chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both.

(Pub. L. 95-87, title VII, §704, Aug. 3, 1977, 91 Stat. 520.)

### Editorial Notes

#### CODIFICATION

Section 704 of Pub. L. 95-87 also amended section 1114 of Title 18, Crimes and Criminal Procedure.

### § 1295. Grants to States

#### (a) Assisting any State in development, administration, and enforcement of State programs under this chapter

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 chapter. 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) Assisting any State in development, administration, and enforcement of its State programs

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.

**(c) Increases in annual grants**

If, in accordance with section 1273(d) of this title, 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.

(Pub. L. 95-87, title VII, § 705, Aug. 3, 1977, 91 Stat. 520.)

**§ 1296. Annual report to President and Congress**

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 chapter. 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 chapter.

(Pub. L. 95-87, title VII, § 706, Aug. 3, 1977, 91 Stat. 521.)

**Statutory Notes and Related Subsidiaries**

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective May 15, 2000, of provisions in this section relating to requirement to submit a report annually to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 109 of House Document No. 103-7.

**§ 1297. Separability**

If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 95-87, title VII, § 707, Aug. 3, 1977, 91 Stat. 521.)

**§ 1298. Alaskan surface coal mine study**

**(a) Contract with National Academy of Sciences-National Academy of Engineering**

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 chapter should be modified with respect to surface coal mining operations in Alaska.

**(b) Report to President and Congress**

The Secretary shall report on the findings of the study to the President and Congress no later than two years after August 3, 1977.

**(c) Draft of legislation**

The Secretary shall include in his report a draft of legislation to implement any changes recommended to this chapter.

**(d) Modification of applicability of environmental protection provisions of this chapter to surface coal mining operations in Alaska; publication in Federal Register; hearing**

Until one year after the Secretary has made this report to the President and Congress, or three years after August 3, 1977, whichever comes first, the Secretary is authorized to modify the applicability of any environmental protection provision of this chapter, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding August 3, 1977, 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) Interim regulations**

In order to allow new mines in Alaska to continue orderly development, the Secretary is authorized to issue interim regulations pursuant to section 1251(b) of this title 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) Authorization of appropriations**

There is 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.

(Pub. L. 95-87, title VII, § 708, Aug. 3, 1977, 91 Stat. 521.)

**§ 1299. Study of reclamation standards for surface mining of other minerals**

**(a) Contract with National Academy of Sciences-National Academy of Engineering; requirements**

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 chapter can be met by such technology and the costs involved;

(2) identify areas where the requirements of this chapter cannot be met by current and developing technology;

(3) in those instances describe requirements most comparable to those of this chapter