

(B) References to State

For purposes of this subsection and the implementation and administration of a tribal program under subchapter V, any reference to a “State” in this chapter shall be considered to be a reference to a “tribe”.

(2) Conflicts of interest**(A) In general**

The fact that an individual is a member of an Indian tribe does not in itself constitute a violation of section 1211(f) of this title.

(B) Employees of tribal regulatory authority

Any employee of a tribal regulatory authority shall not be eligible for a per capita distribution of any proceeds from coal mining operations conducted on Indian reservation lands under this chapter.

(3) Sovereign immunity

To receive primary regulatory authority under section 1254(e) of this title, an Indian tribe shall waive sovereign immunity for purposes of section 1270 of this title and paragraph (4).

(4) Judicial review**(A) Civil actions****(i) In general**

After exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 1254(e) of this title, an interested party may file a petition for judicial review of the civil action in the United States circuit court for the circuit in which the surface coal mining operation named in the petition is located.

(ii) Scope of review**(I) Questions of law**

The United States circuit court shall review de novo any questions of law under clause (i).

(II) Findings of fact

The United States circuit court shall review findings of fact under clause (i) using a clearly erroneous standard.

(B) Criminal actions

Any criminal action brought under section 1268 of this title with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in—

- (i) the United States District Court for the District of Columbia; or
- (ii) the United States district court in which the criminal activity is alleged to have occurred.

(5) Grants**(A) In general**

Except as provided in subparagraph (B), grants for developing, administering, and enforcing tribal programs approved in accordance with section 1254(e) of this title shall be provided to an Indian tribe in accordance with section 1295 of this title.

(B) Exception

Notwithstanding subparagraph (A), the Federal share of the costs of developing, ad-

ministering, and enforcing an approved tribal program shall be 100 percent.

(6) Report

Not later than 18 months after the date on which a tribal program is approved under subsection (e) of section 1254 of this title, the Secretary shall submit to the appropriate committees of Congress a report, developed in cooperation with the applicable Indian tribe, on the tribal program that includes a recommendation of the Secretary on whether primary regulatory authority under that subsection should be expanded to include additional Indian lands.

(Pub. L. 95–87, title VII, §710, Aug. 3, 1977, 91 Stat. 523; Pub. L. 102–486, title XXV, §2514, Oct. 24, 1992, 106 Stat. 3112; Pub. L. 109–432, div. C, title II, §209, Dec. 20, 2006, 120 Stat. 3019.)

Editorial Notes**AMENDMENTS**

2006—Subsec. (i). Pub. L. 109–432, §209(b), struck out “, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 1253 of this title” after “Indian lands” in introductory provisions.

Subsec. (j). Pub. L. 109–432, §209(a), added subsec. (j).

1992—Subsec. (i). Pub. L. 102–486 added subsec. (i).

§ 1301. Experimental practices

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 1265 and 1266 of this title. 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.

(Pub. L. 95–87, title VII, §711, Aug. 3, 1977, 91 Stat. 523.)

§ 1302. Authorization of appropriations

There is authorized to be appropriated to the Secretary for the purposes of this chapter the following sums; and all such funds appropriated shall remain available until expended:

(a) For the implementation and funding of sections 1252, 1273, and 1300 of this title, 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 nondiscretionary costs.

(b) For the implementation and funding of section 1257(c) of this title, see the provisions of section 1231(c)(9) of this title.

(c) For the implementation and funding of section 1295 of this title and for the administrative and other purposes of this chapter, except as otherwise provided for in this chapter, 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 chapter 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 chapter.

(Pub. L. 95-87, title VII, § 712, Aug. 3, 1977, 91 Stat. 524; Pub. L. 95-343, § 1, Aug. 11, 1978, 92 Stat. 473; Pub. L. 101-508, title VI, § 6012(b), Nov. 5, 1990, 104 Stat. 1388-298; Pub. L. 109-432, div. C, title II, § 201(b), Dec. 20, 2006, 120 Stat. 3008.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-432 substituted “1231(c)(9)” for “1231(c)(11)”.

1990—Subsec. (b). Pub. L. 101-508 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the implementation and funding of section 1257(c) of this title there are authorized to be appropriated sums reserved by section 1231(b)(1) of this title for the purposes of section 1257(c) of this title 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 1257(c) of this title 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 1257(c) of this title.”

1978—Subsec. (a). Pub. L. 95-343, § 1(1), increased authorization from \$10,000,000 to \$25,000,000 for each of the two succeeding fiscal years, and inserted provisions authorizing such necessary additional amounts for increases in salary, etc.

Subsec. (b). Pub. L. 95-343, § 1(2), substituted provisions authorizing appropriations of not to exceed \$10,000,000 for fiscal year ending Sept. 30, 1978, and not to exceed \$25,000,000 for each of fiscal years ending Sept. 30, 1979, and 1980, for provisions authorizing appropriations of not to exceed \$10,000,000 and such additional amounts as are necessary for fiscal year ending Sept. 30, 1978, and for each fiscal year for a period of fifteen fiscal years thereafter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508, effective Oct. 1, 1991, see section 6014 of Pub. L. 101-508 set out as a note under section 1231 of this title.

CREDITING PERFORMANCE BOND FORFEITURES

Pub. L. 105-277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-244, provided in part that: “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 1999 and thereafter.”

COST-BASED FEES FOR PRODUCTS OF MINE MAP REPOSITORY

Pub. L. 105-277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-244, provided in part that: “Beginning in fiscal year 1999 and thereafter, cost-based fees for the products of the Mine Map Repository shall be established (and revised as needed) in Federal Register Notices, and shall be collected and credited to this account, to be available until expended for the costs of administering this program.”

§ 1303. Coordination of regulatory and inspection activities

(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 chapter, by the Clean Air Act [42 U.S.C. 7401 et seq.], by the Water Pollution Control Act [33 U.S.C. 1251 et seq.], by the Department of Energy Organization Act [42 U.S.C. 7101 et seq.], and by existing or subsequently enacted Federal mine safety and health laws, except that no such coordination shall be required with respect to mine 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.

(Pub. L. 95-87, title VII, § 713, Aug. 3, 1977, 91 Stat. 524.)

Editorial Notes

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Water Pollution Control Act, referred to in subsec. (a), probably means act June 30, 1948, ch. 758, 62 Stat. 1155, known as the Federal Water Pollution Control Act, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Department of Energy Organization Act, referred to in subsec. (a), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, which is classified principally to chapter 84 (§ 7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

§ 1304. Surface owner protection

(a) Applicability

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.