

semicolon after “protection”, struck out “general welfare,” after “safety,” and added subpar. (B).

Subsec. (a)(2). Pub. L. 109-432, §203(1)(B), designated existing provisions as subpar. (A), substituted “health and safety” for “health, safety, and general welfare”, and added subpar. (B).

Subsec. (a)(3). Pub. L. 109-432, §203(1)(C), which directed that a period be substituted for the semicolon at end, could not be executed because a period already appeared at end.

Subsec. (a)(4), (5). Pub. L. 109-432, §203(1)(D), struck out pars. (4) and (5) which read as follows:

“(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;

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

Subsec. (b). Pub. L. 109-432, §203(2)(A), substituted “Water supply restoration” for “Utilities and other facilities” in heading.

Subsec. (b)(1). Pub. L. 109-432, §203(2)(B), struck out “up to 30 percent of the” before “funds”.

Subsec. (c). Pub. L. 109-432, §203(3), inserted “, subject to the approval of the Secretary,” after “amendments” in second sentence.

1992—Subsec. (a)(4) to (6). Pub. L. 102-486, §2504(c)(2), redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4) which read as follows: “research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;”.

Subsec. (b)(2). Pub. L. 102-486, §2504(e), inserted “, or as the case may be, the dates (and under the criteria) set forth under section 1232(g)(4)(B) of this title” after “1977” in two places.

1990—Pub. L. 101-508 designated existing provisions as subsec. (a), inserted heading and “, except as provided for under section 1240a of this title,” after “subchapter”, and added subsecs. (b) and (c).

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.

§ 1234. Eligible lands and water

Lands and water eligible for reclamation or drainage abatement expenditures under this subchapter 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 1240a of this title, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. For other provisions relating to lands and waters eligible for such expenditures, see section 1232(g)(4) of this title, section 1233(b)(1) of this title, and section 1239 of this title. Surface coal mining operations on lands eligible for reclamation and restoration under this subchapter after the release of the bond or deposit for any such operation as provided under section 1269 of this title. In the event the bond or deposit for a surface coal mining operation on lands eligible for reclamation is forfeited, funds available under this subchapter may be used if the amount of such bond or de-

posit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 1240 of this title.

(Pub. L. 95-87, title IV, §404, Aug. 3, 1977, 91 Stat. 459; Pub. L. 101-508, title VI, §6006, Nov. 5, 1990, 104 Stat. 1388-295; Pub. L. 102-486, title XXV, §2503(d), Oct. 24, 1992, 106 Stat. 3103.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-486 inserted at end “Surface coal mining operations on lands eligible for reclamation shall not affect the eligibility of such lands for reclamation and restoration under this subchapter after the release of the bond or deposit for any such operation as provided under section 1269 of this title. In the event the bond or deposit for a surface coal mining operation on lands eligible for reclamation is forfeited, funds available under this subchapter 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 1240 of this title.”

1990—Pub. L. 101-508 inserted “, except as provided for under section 1240a of this title” after “processes” and inserted at end “For other provisions relating to lands and waters eligible for such expenditures, see section 1232(g)(4) of this title, section 1233(b)(1) of this title, and section 1239 of this title.”

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.

§ 1235. State reclamation program

(a) Promulgation of regulations

Not later than the end of the one hundred and eighty-day period immediately following August 3, 1977, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of this subchapter and establishing procedures and requirements for preparation, submission, and approval of State programs consisting of the plan and annual submissions of projects.

(b) Submission of State Reclamation Plan and annual projects

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

(c) Restriction

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 1253 of this title.

(d) Approval of State program; withdrawal

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 subchapter, sections 1232 and 1240 of this title 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 (a).

(e) Contents of State Reclamation Plan

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 subchapter.

(f) Annual application for support; contents

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 subchapter, 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) Costs

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) Grant of funds

Upon approval of State Reclamation Plan by the Secretary and of the surface mine regu-

latory program pursuant to section 1253 of this title, the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to section 1232(g) of this title and which are necessary to implement the State reclamation program as approved by the Secretary.

(i) Program monitorship

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) Annual report to Secretary

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

(k) Eligible lands of Indian tribes

Indian tribes having within their jurisdiction eligible lands pursuant to section 1234 of this title or from which coal is produced, shall be considered as a "State" for the purposes of this subchapter except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes.

(l) State liability

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.

(Pub. L. 95-87, title IV, §405, Aug. 3, 1977, 91 Stat. 459; Pub. L. 100-71, title I, July 11, 1987, 101 Stat. 416; Pub. L. 101-508, title VI, §§6007, 6012(d)(1), (2), Nov. 5, 1990, 104 Stat. 1388-295, 1388-298.)

Editorial Notes

AMENDMENTS

- 1990—Subsec. (a). Pub. L. 101-508, §6012(d)(1), substituted "preparation" for "perparation".
- Subsec. (h). Pub. L. 101-508, §6012(d)(2), substituted "Upon approval" for "Upon approved".
- Subsec. (l). Pub. L. 101-508, §6007, added subsec. (l).
- 1987—Subsec. (k). Pub. L. 100-71, which directed the amendment of subsec. (k) by inserting "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes" at the end thereof, was executed by making the insertion before the period to reflect the probable intent of Congress.

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.

GRANT OF FUNDS TO STATES UNDER SURFACE MINING CONTROL AND RECLAMATION ACT

Pub. L. 97-377, title I, §150, Dec. 21, 1982, 96 Stat. 1918, provided that: "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) [Pub. L. 95-87, see Short Title note set out under section 1201 of this title] the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations Act.”

§ 1236. Reclamation of rural lands

(a) Agreements with landowners for conservation treatment

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.

(b) Conservation and development plans

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 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) Agreement to effect plan

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) Financial and other assistance; determination by Secretary

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, resident, 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.

(e) Termination of agreements

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) Preservation and surrender of history and allotments

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