

section 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 hereinunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of such crop; or (2) surrender of any such history and allotments.

(g) Rules and regulations

The Secretary of Agriculture shall be authorized to issue such rules and regulations as he determines are necessary to carry out the provisions of this section.

(h) Utilization of Natural Resources Conservation Service

In carrying out the provisions of this section, the Secretary of Agriculture shall utilize the services of the Natural Resources Conservation Service.

(i) Authorization of appropriations

There are authorized to be appropriated to the Secretary of Agriculture, from amounts in the Treasury other than amounts in the fund, such sums as may be necessary to carry out this section.

(Pub. L. 95-87, title IV, § 406, Aug. 3, 1977, 91 Stat. 460; Pub. L. 97-98, title XV, § 1551, Dec. 22, 1981, 95 Stat. 1344; Pub. L. 101-508, title VI, §§ 6008, 6012(c), (d)(3), Nov. 5, 1990, 104 Stat. 1388-295, 1388-298; Pub. L. 109-432, div. C, title II, § 204, Dec. 20, 2006, 120 Stat. 3016.)

Editorial Notes

AMENDMENTS

2006—Subsec. (h). Pub. L. 109-432, § 204(a), substituted “Natural Resources Conservation Service” for “Soil Conservation Service”.

Subsec. (i). Pub. L. 109-432, § 204(b), added subsec. (i). 1990—Subsec. (a). Pub. L. 101-508, § 6012(d)(3), which directed the substitution of “(including owners)” for “including owners” was executed the first time that phrase appeared to reflect the probable intent of Congress, because the parenthetical statement concluding with “water rights)” was enacted without an opening parenthesis.

Subsec. (d). Pub. L. 101-508, § 6008, struck out “experimental” before “reclamation treatment projects” in last sentence.

Subsec. (i). Pub. L. 101-508, § 6012(c), repealed subsec. (i) which read as follows: “Funds shall be made available to the Secretary of Agriculture for the purposes of this section, as provided in section 1231 of this title.”

1981—Subsec. (d). Pub. L. 97-98 inserted provisions that notwithstanding any other provision of this section with regard to acreage limitations, the Secretary may carry out experimental 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.

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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of Title 7, Agriculture.

§ 1237. Acquisition and reclamation of land adversely affected by past coal mining practices

(a) Findings of fact; notice; right of entry

If the Secretary or the State pursuant to an approved State program, makes a finding of fact that—

(1) land or water resources have been adversely affected by past coal mining practices; and

(2) the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily available; or

(4) the owners will not give permission for the United States, the States, political subdivisions, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices;

then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality