

(2) the extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under regulations established by the regulatory authority.

(Pub. L. 95-87, title V, § 528, Aug. 3, 1977, 91 Stat. 514; Pub. L. 100-34, title II, § 201(a), May 7, 1987, 101 Stat. 300.)

#### AMENDMENTS

1987—Pub. L. 100-34 inserted “and” after “him;” in par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “the extraction of coal for commercial purposes where the surface mining operation affects two acres or less; and”.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 201(b)–(e) of Pub. L. 100-34 provided that: “(b) EFFECTIVE DATE FOR NEW OPERATIONS.—The amendments made by this section [amending this section] shall take effect on the date 30 days after the enactment of this Act [May 7, 1987] with respect to each operator commencing surface coal mining operations on or after such date.

“(c) EFFECTIVE DATE FOR EXISTING OPERATIONS.—The amendments made by this section shall take effect on the date 6 months after the enactment of this Act with respect to each operator commencing surface coal mining operations pursuant to an authorization under State law before the date 30 days after the enactment of this Act. Nothing in this Act [amending this section and section 1232 of this title] shall preclude reclamation activities pursuant to State law or regulations at the site of any surface coal mine which was exempt from the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1201 et seq.] under section 528(2) of that Act [30 U.S.C. 1278(2)], as in effect before the enactment of this Act.

“(d) EFFECT ON STATE LAW.—To the extent that any provision of a State law, or of a State regulation, adopted pursuant to the exception under section 528(2) of the Surface Mining Control and Reclamation Act of 1977 as in effect before the enactment of this Act, is inconsistent with the amendments made by this section, such provision shall be of no further force and effect after the effective date of such amendments.

“(e) DEFINITION.—For purposes of this section, the term ‘surface coal mining operations’ has the meaning provided by section 701(28) of the Surface Mining Control and Reclamation Act of 1977 [30 U.S.C. 1291(28)].”

#### § 1279. Anthracite coal mines

(a) The Secretary is authorized to and shall issue separate regulations according to time schedules established in this chapter for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence on August 3, 1977, in lieu of sections 1265 and 1266 of this title. Provisions of sections 1259 and 1269 of this title are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this chapter apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: *Provided, however*, That upon amendment of a State’s regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this chapter, the Secretary shall issue such additional regulations as necessary to meet the purposes of this chapter.

(b) Omitted.

(Pub. L. 95-87, title V, § 529, Aug. 3, 1977, 91 Stat. 514.)

#### CODIFICATION

Subsec. (b) of this section, which required the Secretary of the Interior to report to Congress biennially on the effectiveness of State anthracite regulatory programs operating in conjunction with this chapter with respect to protecting the environment, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 109 of House Document No. 103-7.

#### SUBCHAPTER VI—DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

#### § 1281. Designation procedures

##### (a) Review of Federal land areas for unsuitability for noncoal mining

With respect to Federal lands within any State, the Secretary of Interior may, and if so requested by the Governor of such State shall, review any area within such lands to assess whether it may be unsuitable for mining operations for minerals or materials other than coal, pursuant to the criteria and procedures of this section.

##### (b) Criteria considered in determining designations

An area of Federal land may be designated under this section as unsuitable for mining operations if (1) such area consists of Federal land of a predominantly urban or suburban character, used primarily for residential or related purposes, the mineral estate of which remains in the public domain, or (2) such area consists of Federal land where mining operations would have an adverse impact on lands used primarily for residential or related purposes.

##### (c) Petition for exclusion; contents; hearing; temporary land withdrawal

Any person having an interest which is or may be adversely affected shall have the right to petition the Secretary to seek exclusion of an area from mining operations pursuant to this section or the redesignation of an area or part thereof as suitable for such operations. Such petition shall contain allegations of fact with supporting evidence which would tend to substantiate the allegations. The petitioner shall be granted a hearing within a reasonable time and finding with reasons therefor upon the matter of their petition. In any instance where a Governor requests the Secretary to review an area, or where the Secretary finds the national interest so requires, the Secretary may temporarily withdraw the area to be reviewed from mineral entry or leasing pending such review: *Provided, however*, That such temporary withdrawal be ended as promptly as practicable and in no event shall exceed two years.

##### (d) Limitation on designations; rights preservation; regulations

In no event is a land area to be designated unsuitable for mining operations under this section on which mining operations are being conducted prior to the holding of a hearing on such

petition in accordance with subsection (c) of this section. Valid existing rights shall be preserved and not affected by such designation. Designation of an area as unsuitable for mining operations under this section shall not prevent subsequent mineral exploration of such area, except that such exploration shall require the prior written consent of the holder of the surface estate, which consent shall be filed with the Secretary. The Secretary may promulgate, with respect to any designated area, regulations to minimize any adverse effects of such exploration.

**(e) Statement**

Prior to any designation pursuant to this section, the Secretary shall prepare a detailed statement on (i) the potential mineral resources of the area, (ii) the demand for such mineral resources, and (iii) the impact of such designation or the absence of such designation on the environment, economy, and the supply of such mineral resources.

**(f) Area withdrawal**

When the Secretary designates an area of Federal lands as unsuitable for all or certain types of mining operations for minerals and materials other than coal pursuant to this section he may withdraw such area from mineral entry or leasing, or condition such entry or leasing so as to limit such mining operations in accordance with his determination, if the Secretary also determines, based on his analysis pursuant to subsection (e) of this section, that the benefits resulting from such designation would be greater than the benefits to the regional or national economy which could result from mineral development of such area.

**(g) Right to appeal**

Any party with a valid legal interest who has appeared in the proceedings in connection with the Secretary's determination pursuant to this section and who is aggrieved by the Secretary's decision (or by his failure to act within a reasonable time) shall have the right of appeal for review by the United States district court for the district in which the pertinent area is located.

(Pub. L. 95-87, title VI, § 601, Aug. 3, 1977, 91 Stat. 515.)

SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

**§ 1291. Definitions**

For the purposes of this chapter—

(1) "alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for sub-irrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits;

(2) "approximate original contour" means that surface configuration achieved by back-

filling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the regulatory authority determines that they are in compliance with section 1265(b)(8) of this title;

(3) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(4) "Federal lands" means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands: *Provided*, That for the purposes of this chapter lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority shall not be subject to sections 1304 (Surface Owner Protection) and 1305 (Federal Lessee Protection) of this title.<sup>1</sup>

(5) "Federal lands program" means a program established by the Secretary pursuant to section 1273 of this title to regulate surface coal mining and reclamation operations on Federal lands;

(6) "Federal program" means a program established by the Secretary pursuant to section 1254 of this title to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of this chapter;

(7) "fund" means the Abandoned Mine Reclamation Fund established pursuant to section 1231 of this title;

(8) "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement;

(9) "Indian lands" means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe;

<sup>1</sup> So in original. The period probably should be a semicolon.